



Analysis of Original Bill

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Sponsor:

Bill Number: SB 1211

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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 for wages paid to an 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 each taxable year beginning on or after January 1, 2019, and before January 1, 2024.

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.

Generally, current federal and state laws allow taxpayers to deduct wages paid to employees as a business expense.

This Bill

This bill would, under the PITL and the CTL, for each taxable year beginning on or after January 1, 2019, and before January 1, 2024, allow a tax credit to a taxpayer in an amount equal to 50 percent of the wages paid in the taxable year to an apprentice, or \$2,500, whichever is lesser, in the first year of a two-year term of a qualified apprenticeship program.

The bill would define the following:

- “Apprentice” means an individual who meets all of the following requirements:
 - Has entered into an apprenticeship agreement with the taxpayer as described in Section 3077 of the Labor Code.
 - Is trained by the taxpayer through a qualified apprenticeship program.
- “Qualified apprenticeship program” means an apprenticeship program that meets all of the following requirements:
 - Is approved by the Chief of the Division of Apprenticeship Standards, as specified.¹
 - Requires at least 4,000 hours, but not more than 8,000 hours of apprenticeship training to occur during a two-year term.
 - Satisfactory completion provides recognition of the apprentice as a qualified professional, technical, craft, or trade worker.
- “Wages” means any payments or remuneration made to an apprentice for services performed by the apprentice.

In the case where the credit allowed by this section exceeds the tax, the excess may be carried over for up to 5 years until the credit is exhausted.

If the apprentice with respect to whom a credit was allowed is terminated by the taxpayer for reasons other than gross misconduct by the apprentice before the completion of the two-year term of the apprenticeship training program, the amount of the credit allowed shall be treated as tax owed for the taxable year during which the apprentice is terminated, except that the amount shall be prorated for the time the apprentice was trained through the apprenticeship program during the two-year term.

The credit would be excluded from the provisions of Section 41.

This bill would be repealed by its own terms as of December 1, 2024.

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

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.

It is unclear whether the \$2,500 cap would be applied per apprentice or per taxpayer. For clarity and consistency with the author's intent, it is recommended the bill be amended.

The credit would be allowed in the first year of a two-year term. It is unclear whether and how the credit would be allowed for a term that is less than two year or more than two years. To clarify the author's intent, the bill should be amended.

This bill uses a term that is undefined, i.e., "gross misconduct." The absence of definitions to clarify this term 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 this term.

The bill would require recapture of the credit if an apprenticeship is terminated by the taxpayer for reasons other than gross misconduct. For example, an apprenticeship may be terminated as a result of disability or relocation. If this is contrary to the author's intent, the bill should be amended.

The recapture provisions of the bill are unclear. If an apprentice is terminated for a reason other than "gross misconduct," it is unclear how much of the credit should be recaptured. For clarity, the bill should be amended to specify how the proration portion of the recapture provisions should work.

Typically, credits involving areas for which the department lacks expertise are certified by another agency or agencies that possess the 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.

Legislative History

AB 1904 (Cervantes, 2017/20018) would create a tax 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. AB 1904 is currently pending before the Assembly Appropriations Committee.

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) 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.

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.

Economic Impact

Revenue Estimate

This bill would result in the following revenue loss:

Estimated Revenue Impact of SB 1211 as Introduced February 15, 2018
For Taxable Years Beginning On or After January 1, 2019
Assumed Enactment after June 30, 2018

(\$ in Millions)

Fiscal Year	Revenue
2018-2019	- \$27
2019-2020	- \$60
2020-2021	- \$75

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 Industrial Relations for the number of apprentices entering programs requiring between 4,000 and 8,000 hours of training, and who completed their first year of apprentice training, it is estimated that there will be 28,000 qualified apprentice employees in 2019.

The estimated number of qualified apprentices is multiplied by the expected maximum credit allowable of \$2,500 resulting in total estimated credit generated of \$70 million in 2019. Due to the short implementation period, 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 5 percent each in years three and 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 if an apprentice with respect to whom a credit is allowed is terminated by the taxpayer for reasons other than gross misconduct before the completion of the two-year term of the qualified apprentice training program, the amount of credit allowed shall be treated as tax owed for the taxable year the termination occurred. Based on apprenticeship completion research, this results in an offsetting recapture revenue gain of \$4.5 million in 2020.

The tax-year estimates are converted to fiscal-year estimates, and then rounded to arrive at the amounts reflected 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 inadvertently exclude other training programs in emerging industries.

Policy Concerns

This bill would allow taxpayers in certain circumstances to claim multiple tax benefits for the same wages paid. For example, the wages this credit would be based on would be deductible as a business expense. Also, there may also be situations where more than one credit could apply for the same wages paid.

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