

Author: Hueso Analyst: Jessica Deitchman Bill Number: SB 507  
Related Bills: See Legislative History Telephone: 845-6310 Introduced Date: February 16, 2017  
Attorney: Bruce Langston Sponsor: \_\_\_\_\_

**SUBJECT:** Modify the New Employment Credit/Ex-Offender & Ex-Foster Youth

**SUMMARY**

This bill would, under the Personal Income Tax Law (PITL), and the Corporation Tax Law (CTL), expand the eligibility for the New Employment tax credit (NEC).

**RECOMMENDATION – NO POSITION**

**REASON FOR THE BILL**

The reason for the bill is to encourage employers to hire young adults that have difficulty finding employment either because they have been convicted of a felony or were part of the state’s foster youth program.

**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, 2018.

**FEDERAL/STATE LAW**

Existing federal law provides special tax incentives for empowerment zones and enterprise communities to provide economic revitalization of distressed urban and rural areas.

Current state and federal laws generally allow taxpayers engaged in a trade or business to deduct all expenses that are considered ordinary and necessary in conducting that trade or business.

Current state law allows a NEC that is available to a qualified taxpayer that hires a qualified full-time employee, has an overall net increase in employment, and pays or incurs qualified wages attributable to work performed by the qualified full-time employee in a designated census tract or former Enterprise Zone. The qualified taxpayer must receive a tentative credit reservation from the Franchise Tax Board (FTB) for that qualified full-time employee.

Current state law allows the California Competes Tax Credit (CCC).<sup>1</sup> This credit 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

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<sup>1</sup> Revenue & Taxation Code (R&TC) sections 17059.2 and 23689.

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. This credit shall be allocated by GO-Biz with respect to the 2013-14 fiscal year through and including the 2017-18 fiscal year.

### **THIS BILL**

This bill would modify the existing NEC to allow two new types of qualified employees. The bill would specify that a qualified employee may include either of the following for those hired on or after January 1, 2018.

- An ex-offender, previously convicted of a felony who is between 18 to 25 years of age, inclusive, and who demonstrates completion of a work readiness program.
- An ex-foster youth, who is between 18 to 25 years of age, inclusive, who was a child who was the subject of a petition filed pursuant to Section 300 of the Welfare and Institutions Code, whether or not the child had been removed from his or her home by the juvenile court pursuant to Section 319 or 361 of the Welfare and Institutions Code or was a child who was the subject of a petition filed pursuant to Section 602 of the Welfare and Institutions Code and has been removed from his or her home by the juvenile court pursuant to Section 727 of the Welfare and Institutions Code, and who demonstrates completion of a work readiness program.

The bill specifies that;

- These types of employees would be excluded from the calculation of the applicable percentage<sup>2</sup> and,
- These types of employees may perform work anywhere in the state and,
- The credit allowed for these types of employees would only be taken into account for the adjustment to the aggregate amount of credit that may be allocated as required by subdivision (g) of Sections 17059.2 and 23689 for the 2018-19 fiscal year and fiscal years thereafter.

The bill would define the following:

- “Job training provider” means an entity that delivers a combined job readiness and life-skills training program that, at a minimum, includes high school or continuing education courses. The entity’s program may also offer additional services like job placement, career and mental health counseling, prisoner reentry services, and relapse prevention and sober-living support.
- “Work readiness program” means a program offered by a job training provider that provides vocational job training, educational opportunities, and life skills. A work readiness program would include paid or unpaid on-the-job training opportunities, pre-

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<sup>2</sup> As described in R&TC sections 17053.73 (b)(2) and 23626 (b)(2).

apprenticeship programs, vocational instruction, or internship placement, the opportunity for academic advancement, the opportunity to earn at least one industry recognized certification, and a life-skills training component.

## **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.

The definition provided in the bill to define who may qualify as an ex-foster youth includes children that were never removed from their home. This definition may be overly broad and inadvertently include employees that were never foster youth, as they were never in the foster youth program. If this is contrary to the author's intent, the bill should be amended.

This bill would require the expanded credit to be included in the determination of the aggregate allowable CCC beginning with fiscal years 2018-19. Because the authority to allocate the CCC under current law expires prior to the 2018-19 fiscal year, this provision would have no effect. If the author intends to extend the CCC, this bill should be amended.

## **LEGISLATIVE HISTORY**

SB 661 (Fuller, 2017/2018) would expand the NEC by modifying the way employers and employees qualify for the credit. SB 661 was introduced on February 17, 2017.

SB 1216 (Hueso, 2015/2016), similar to this bill, would have allowed a credit to a qualified employer who employed a qualified employee who was an ex-felon, as defined. SB 1216 failed to pass out of the house of origin by the constitutional deadline.

AB 1404 (Grove, 2015/2016) would have allowed a credit to a qualified employer who employs a qualified employee and pays the qualified employee a wage that exceeds the minimum wage during the taxable year. The credit would have been in an amount equal for the difference between the special minimum wage that may be paid to a qualified employee and the minimum wage. AB 1404 failed to pass out of the house of origin by the constitutional deadline.

SB 90 (Galgiani and Canella, Chapter 70, Statutes of 2013), modified AB 93 as chaptered on July 11, 2013. Specifically, SB 90, for purposes of the new hiring tax credit, modified the definition of qualified employee, excluded sexually oriented businesses from the definition of qualified taxpayer and small business, and modified the defined geographical area that the hiring credit may be generated in.

AB 93 (Assembly Committee on Budget, Chapter 69, Statutes of 2013), repealed the geographically targeted economic development area tax incentives and the New Jobs Tax Credit under the PITL and CTL, created a New Hiring Tax Credit, established the California Competes Tax Credit Committee, and created the CCC under the PITL and CTL.

## **OTHER STATES' INFORMATION**

Review of *Illinois, Florida, Massachusetts, Michigan, Minnesota, and New York* laws found no comparable tax credits. These states were selected and reviewed 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 and an appropriation will be requested, if necessary.

## **ECONOMIC IMPACT**

### **Revenue Estimate**

Based on the provisions of this bill, the FTB is unable to determine an estimated revenue impact at this time.

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill.

### **Revenue Discussion**

This bill provides that funding for the ex-offender and ex-foster youth provision would be allocated from the fiscal year 2018-19 CCC under R&TC sections 17059.2. & 23689. The appropriation/allocation for the CCC for fiscal years starting 2018-19 has not been identified. Should amounts be allocated for the CCC for these fiscal years, a revenue loss may result under R&TC sections 17059.2 & 23689.

## **SUPPORT/OPPOSITION**

Support: None provided.

Opposition: None provided.

## **ARGUMENTS**

Proponents: Some may argue that this bill would encourage hiring of difficult to employ individuals by offering a tax credit to employers.

Opponents: Some may argue that this credit is overly narrow and inadvertently excludes other groups of difficult to employ individuals who could benefit from an incentive being offered to employers that hire these employees.

## **POLICY CONCERNS**

This bill would allow a credit for wages paid to a qualified full-time employee that are currently deductible as business expenses. Generally, a credit is allowed in lieu of a deduction in order to eliminate multiple tax benefits for the same item of expense.

## **LEGISLATIVE STAFF CONTACT**

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