

Author: Stern, et al. Analyst: Funmi Obatolu Bill Number: SB 807  
Related Bills: See Prior Telephone: 845-5845 Amended Date May 3, 2017  
Analysis Attorney: Bruce Langston Sponsor: \_\_\_\_\_

**SUBJECT:** Teacher Recruitment Credit and Retention Exclusion

## **SUMMARY**

This bill would, under the Personal Income Tax Law, allow a tax credit for certain expenses incurred to become a credentialed teacher and an exclusion from gross income of certain income for qualified teachers.

This analysis only addresses the provisions of the bill that impact the department's programs and operations.

## **RECOMMENDATION – NO POSITION**

### **Summary of Amendments**

The May 3, 2017, amendments added a coauthor and modified provisions of the tax credit and income exclusion as discussed below. These amendments resolved all but one of the implementation concerns and one of the policy concerns discussed in the department's analysis of the bill as introduced on February 17, 2017, and raised new technical considerations.

Except for the "This Bill," "Implementation Considerations," "Technical Considerations," "Economic Impact," and "Support/Opposition," sections the remainder of the department's analysis of the bill as introduced February 17, 2017, still applies. The "Support/Opposition" section has been updated to reflect current information and the unresolved "Implementation Consideration," "Policy Concerns," and "Fiscal Impact" sections have been restated for convenience.

## **THIS BILL**

### *Tax Credit*

For each taxable year beginning on or after January 1, 2017, and before January 1, 2027, this bill would allow a qualified taxpayer an income tax credit equal to 50 percent of the qualified costs paid or incurred during the taxable year to earn a clear teaching credential.

For purposes of the credit, this bill would define the following:

“Clear teaching credential” means a credential that signifies that all education, experience, and program requirements have been met to teach in a California public school beyond five years, including a general education clear credential or an education specialist instruction clear credential authorized pursuant to the Education Code.<sup>1</sup>

“Educational assessment vendor” means a vendor approved by the Commission on Teacher Credentialing to administer assessments developed or approved by the commission, including the National Board for Professional Teaching Standards.

“Local education agency” means a public school employer who charges a fee for participation in a required program of beginning teacher induction or a Commission on Teacher Credentialing approved sponsor of a program of beginning teacher induction.

“Qualified costs” means unreimbursed costs paid or incurred by the qualified taxpayer to a local education agency, regionally accredited institution of higher education, or educational assessment vendor for any of the following:

- Program enrollment fees directly related to the completion of a second- tier teaching credential in a program approved by the Commission on Teacher Credentialing to earn a clear teaching credential pursuant to the Education Code, including general education specialist induction programs.
- Program enrollment fees for a master’s degree leading to a clear teaching-credential to the extent an approved induction program is verified as unavailable by the qualified taxpayer’s employer, and the program is approved by the Commission on Teacher Credentialing.
- Fees for certification assessments, including performance assessments required by the Commission on Teacher Credentialing, to complete the requirements of either of the programs described above.
- Tuition for years four and five in an integrated program of professional preparation, as described in the Education Code.

“Qualified taxpayer” means an individual who is a teacher of record in a kindergarten through grade 12 regionally accredited California school prior to their sixth school year of employment as a teacher of record. A taxpayer does not need to have a teaching credential or a full-time position as a teacher of record, to be a qualified taxpayer for purposes of the credit this bill would allow.

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<sup>1</sup> Article 4 (commencing with Section 44250) of Chapter 2 of Part 25 of Division 3 of Title 2 of the Education Code.

“Regionally accredited institution of higher education” means a college or university that has been approved by the Commission on Teacher Credentialing to provide a program of beginning teacher induction.

“Teacher of record” means a teacher who has been assigned the responsibility for specified pupils’ learning in a grade, subject, or course as reflected on the school’s official record of attendance.

Unused credits could be carried over for up to five years, until exhausted.

The Franchise Tax Board (FTB) may issue regulations necessary or appropriate to carry out the purpose of the credit.

This bill would exempt the FTB's standards, criteria, procedures, determinations, rules, notices, or guidelines from the requirements of the Administrative Procedure Act (APA).

The credit would be repealed by its own terms on December 1, 2027.

#### *Income Exclusion*

Also, this bill would exclude from gross income 50 percent of any qualified income received by an eligible teacher on or after January 1, 2017, and before January 1, 2027.

For purposes of the exclusion, the bill would define the following:

“Eligible teacher” is an individual who meets all of the following requirements:

- Is a teacher of record in a qualified high-poverty public school teaching any of the grades kindergarten and grades 1 to 12, inclusive.
- Holds a California clear teaching credential, including a general education or education specialist instruction clear teaching credential.
- The exclusion would commence in the sixth school year, as described by Section 37200 of the Education Code, in which the eligible teacher is a teacher of record in a California school, and for the next four consecutive school years teaching at a qualified high-poverty public school in California.

“Qualified high-poverty public school” means a public school in California that enrolls pupils in kindergarten or in any of grades 1 to 12, inclusive, and meets at least one of the following criteria:

- Meets the minimum identified student percentage to be eligible to receive the free federal reimbursement rate for all reimbursable school breakfasts and lunches served pursuant to the community eligibility provision in Section 1759a of Title 42 of the United States Code.
- Enrolled 62.5 percent or more pupils in the prior school year who were eligible for federal free or reduced priced meals.

- For a first-year school not operational in the prior school year, at least 62.5 percent of current school year enrollment meets the eligibility requirements for federal free or reduced price meals.

The State Department of Education would be required to provide a list of qualified high-poverty public schools, determined as specified, to the FTB, upon request.

“Qualified income” means wages subject to withholding under Division 6 (commencing with Section 13000) of the Unemployment Insurance Code paid by a school district to an eligible teacher where at least 50 percent of the teacher’s time is spent instructing pupils in a qualified high-poverty public school.

“Teacher of record” means a teacher who has been assigned the responsibility for specified pupils’ learning in a grade, subject, or course as reflected on the school’s official record of attendance.

The FTB may issue regulations necessary or appropriate to carry out the purpose of the exclusion, and may, at its discretion, consult with the Commission on Teacher Credentialing and the State Board of Education.

This bill would exempt the FTB’s standards, criteria, procedures, determinations, rules, notices, or guidelines from the requirements of the APA.

## **IMPLEMENTATION CONSIDERATIONS**

Department staff has identified the following implementation consideration 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.

The department lacks expertise in teacher certification and credentialing that is the basis for the credit and income exclusion this bill would allow. The author may wish to consider requiring the proper local or state agency to certify that the requirements for the credit and the income exclusions are met and require the taxpayer to obtain, retain and provide to the FTB, upon request, evidence of that certification.

## **TECHNICAL CONSIDERATIONS**

Paragraph (1) of subdivision (d) of section 17053 needs to be amended to correspond to the regulatory authority specified in paragraph (1) of subdivision (c) of section 17153 by striking “section.” and inserting, “section and may, in its discretion, consult with the California Commission on Teacher Credentialing and the State Board of Education.”

On page 4, line 24, the word “taxpayer” should be amended to read “an individual” for consistency and clarity.

For clarity, the phrase “Commission on Teacher Credentialing” should be amended to read “California Commission on Teacher Credentialing” where it appears in the bill.

## 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

This bill would result in the following revenue losses:

Estimated Revenue Impact of SB 807 As Amended May 3, 2017 Assumed Enactment After June 30, 2017 (\$ in Millions)			
	2017-18	2018-19	2019-20
Tax Credit	- \$7	- \$11	- \$18
Income Exclusion	- \$36	- \$24	- \$25

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

### Revenue Discussion

#### *Tax Credit*

Based on data from the California Commission on Teacher Credentialing, it is estimated that nearly 25,000 taxpayers would be working toward earning a clear teaching credential in 2017. With an average annual expense of \$2,200, approximately \$27 million in credits would be generated for tax year 2017. It is assumed that 10 percent, or \$2.7 million, of the credits would be used in the year generated and the remaining credits would be carried forward and used over the next five years.

The tax year estimates are converted to fiscal year estimates, and then rounded as reflected in the above table.

#### *Income Exclusion*

Based on data from the California Department of Education in 2015, there were approximately 35,000 eligible teachers as defined by the provisions of the bill. With an average salary of roughly \$50,000, approximately \$1.8 billion in wages would be earned by qualified teachers. Applying a 50 percent exclusion rate, \$875 million would be excluded from gross income. This exclusion amount is adjusted to reflect changes in the economy over time. Applying an average tax rate of 2.5 percent results in a total revenue loss of \$22 million in taxable year 2017.

The tax year estimates are converted to fiscal year estimates, and then rounded as reflected in the above table.

## **SUPPORT/OPPOSITION<sup>2</sup>**

Support: The ARC and United Cerebral Palsy California; California Alliance of African American Educators; California Association of African American Superintendents and Administrators; California Catholic Conference; City and County of San Francisco; The Education Trust-West; E4E- Los Angeles; EdVoice; Genders and Socialites Alliance Network; Green Dot Public Schools; Partnership for Los Angeles Schools; The Teacher Salary Project; 8,753 individuals.

Opposition: California Teachers Association; California Tax Reform Association; National Federation of Independent Business.

## **POLICY CONCERNS**

This bill would create differences between federal and California tax law, thereby increasing the complexity of California tax return preparation.

This bill would allow taxpayers in certain circumstances to claim multiple tax benefits for the same item of expense.

## **LEGISLATIVE STAFF CONTACT**

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<sup>2</sup> Senate Governance & Finance Committee Analysis dated May 8, 2017.