



Analysis of Amended Bill

Author: Rubio

Sponsor:

Bill Number: AB 1542

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Amended: March 28, 2019

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Related Bills: See Legislative
History

Subject: Worker Training Program Tax Credit

Summary

This bill would, under the Personal Income Tax Law (PITL) and the Corporation Tax Law (CTL), allow a tax credit for qualified employers that for implement an eligible worker training program.

Recommendation – No position.

Summary of Amendments

The March 28, 2019, amendments removed intent language and replaced it with the provisions discussed in this analysis.

This is the department's first analysis of the bill.

Reason for the Bill

The reason for the bill is to encourage California employers to invest in upskilling their workforce, preserve employment, increase the productivity of each employee, and prepare the state for the 21st century economy.

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, 2020, and before January 1, 2030.

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 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 law lack a credit comparable to the one this bill would provide.

Under Revenue and Taxation Code (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 effectiveness of the credit.

This Bill

This bill would, under the PITL and CTL, for taxable years beginning on or after January 1, 2020, and before January 1, 2030, allow a credit to a qualified employer in an amount equal to 50 percent of all expenditures paid or direct costs incurred for the implementation of an eligible worker training program by the qualified employer during the taxable year.

The credit allowed to a qualified employer would be limited to \$5,000 per qualified full-time employee completing an eligible worker training program.

The bill would define the following terms and phrases:

- “Qualified employer” means any entity whose primary business is in an industry that satisfies all of the following criteria:
 - Is an industry experiencing a shortage of workers due to lack of technical skills in the workforce.
 - Is an industry that is experiencing technological disruption requiring significant capital investment for existing business to remain competitive.
 - Is an industry that provides middle-skill occupation, as identified by the Employment Development Department.
- “Qualified full-time employee” means an individual who meets all of the following requirements:
 - Performs at least 50 percent of their services for the qualified employer in California during the taxable year.
 - Has been employed by a qualified employer for at least six months and intends to remain employed by the qualified employer for 18 months after completion of an eligible worker training program.
 - Is paid no more than \$120,000 per year.

- Satisfies either of the following conditions:
 - Is paid wages by the qualified employer for services not less than an average of 35 hours per week.
 - Is a salaried employee and was paid compensation during the taxable year for full-time employment¹ by the qualified employer.
- “Eligible worker training program” means a training program that upgrades, retains or enhances the qualified employee’s job-related skills in a manner that is necessary to adapt to new demands in the workplace due to the adoption of new technology, equipment, or innovation.

The bill would allow the Franchise Tax Board (FTB) to adopt regulations necessary or appropriate to implement the purposes of this section including guidelines establishing procedures for claiming the credit allowed pursuant to this section.

Chapter 3.5² of Part 1 of Division 3 or Title 2 of the Government Code shall not apply to any standard criterion, procedure, determination, rule, notice or guideline established or issued by the FTB.

This credit would be repealed by its own terms on December 1, 2030.

In uncodified language, the FTB would be required to submit an initial report to the Legislature October 1, 2025, and annually thereafter, until the bill is repealed. The report would be required to include, but not be limited to:

- The number of tax returns claiming the credit
- The number of employees represented on tax returns claiming the credit
- The average amount of credit allowed for taxpayers claiming the credit
- The average amount of credit per employee for taxpayers claiming the credit
- The industry sectors claiming the credit

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.

¹ Within the meaning of Section 515 of the Labor Code.

² Commencing with Section 11340.

It is unclear how the \$120,000 compensation limit to be considered a qualified full-time employee would be applied. For example, it is unclear how wages earned from a source other than the taxpayer should be counted toward the cap. For clarity and to ensure consistency with the author's intent this bill should be amended.

The definitions of "eligible worker training program," "qualified employer," and "intend to remain employed" may be more broadly interpreted than the author intends. 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.

Personal income tax returns may be filed, with extension, until October 15. Corporate returns may be filed even later, depending on when the taxpayer's fiscal year ends. The department generally processes returns within six months of receipt. If the author's intent is to have each report contain complete information for the taxable year, the due date of the report should be changed. Complete data for the 2024 tax year would be unavailable until March 1, 2026. For example, the return due date for corporate taxpayers with fiscal years beginning December 1, 2020, and ending November 30, 2021, is March 15, 2022, and with extension, September 15, 2022. The department would complete processing of these returns by March 2023. Thus, the earliest that data from these corporate returns could be included in a report would be approximately March 2023.

Technical Considerations

The bill includes a reporting requirement for the FTB in uncodified law. For ease of administration, it is recommended the bill be amended to place these provisions in the related sections of the R&TC.

Legislative History

AB 2700 (Burke and Lowe, 2017/2018) would have created two tax credits for costs related to specific education and training programs. AB 2700 failed to pass out of the Assembly by the constitutional deadline.

AB 2164 (Patterson, et al., 2013/2014), would have allowed a credit to employers that provide education or training to employees. AB 2164 failed to pass out of the Assembly 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.

Illinois offers an "Economic Development for a Growing Economy Tax Credit Program" (EDGE). This program provides annual corporate tax credits to qualifying businesses that support job creation, capital investment, and improve the standard of living for all *Illinois* residents. The program offers a credit equal to ten percent of eligible training costs of newly hired full-time employees' positions.

New York provides an "Employee Training Incentive Program" (E-TIP) tax credit. This credit is available to *New York* state employers for training investments that upgrade, retain, or improve the productivity of their employees, and approved internship programs that provide training in advanced technology or life sciences. The credit is equal to 50 percent of the eligible training costs up to \$10,000 per employee and 50 percent of the stipend paid to an intern up to \$3,000 per intern.

Florida, Massachusetts, Michigan, and Minnesota lack a credit similar to the one this bill would create.

Fiscal Impact

This bill would impact the department's programming, printing, and processing costs. As the bill continues to move through the legislative process, costs will be identified.

Economic Impact

Revenue Estimate

This bill as amended on March 28, 2019, would have a revenue loss, but the amount is unknown.

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

The bill would have a revenue loss. However, the amount of loss cannot be determined until the implementation considerations discussed above have been addressed.

Policy Concerns

This bill would allow a credit for the costs paid or incurred for certain employee training 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.

This bill lacks carryover language. As a result, any unused credit would be lost if the taxpayer is unable to use the entire credit amount in the year claimed. The author may wish to add language allowing a limited carryover period.

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