



## **Summary Analysis of Amended Bill**

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Sponsor:

Bill Number: AB 1542

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Amended: April 30, 2019

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Related Bills: See Prior Analysis

**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 implement an eligible worker training program.

**Recommendation – No position.**

### **Summary of Amendments**

The April 30, 2019, amendments modified the sunset date and the due date of the FTB's report to the legislature. As a result of the amendments, the "Effective/Operative Date," "This Bill," "Implementation Considerations," and "Economic Impact" sections of the department's analysis of the bill as amended March 28, 2019, have been revised. The remainder of that analysis still applies. The "Technical Considerations," "Fiscal Impact," and "Policy Concerns" sections are restated 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, 2020, and before January 1, 2025.

### **This Bill**

This bill would, under the PITL and CTL, for taxable years beginning on or after January 1, 2020, and before January 1, 2025, 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 employment<sup>1</sup> 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.

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<sup>1</sup> Within the meaning of Section 515 of the Labor Code.

Chapter 3.5<sup>2</sup> 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, 2025.

In uncodified language, the FTB would be required to submit an initial report to the Legislature October 1, 2022, 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.

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

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<sup>2</sup> Commencing with Section 11340.

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 reference, it is recommended the bill be amended to place these provisions in the related sections of the Revenue and Taxation Code.

### 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 would result in the following revenue loss:

Estimated Revenue Impact of AB 1542 as Amended April 30, 2019  
Assumed Enactment after June 30, 2019

(\$ in Millions)

<b>Fiscal Year</b>	<b>Revenue</b>
2019-2020	-\$400
2020-2021	-\$950
2021-2022	-\$950

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

To provide an estimate for this bill, several assumptions were made to arrive at the possible universe of eligible taxpayers. Without clear and consistent definitions it is difficult to identify the qualifying population and thus estimate the impact of this proposal. As a result, broad assumptions are made to produce the revenue estimate

above. However, if the implementation consideration are addressed, the revenue estimate is likely to change.

Based on occupational employment statistics from the Employee Development Department, it is estimated there would be approximately 900,000 qualified employees in the 2020 taxable year. It is assumed that 100 percent of these employees would work for a qualified employer.

Using an average of 25 employees per employer, it is estimated that there would be 36,000 qualified employers. Of these, it is assumed that 75 percent, or 27,000, employers would implement an eligible worker training program in the 2020 taxable year. It is assumed that the costs to implement an eligible worker training program would be approximately \$100,000. Applying the credit of 50 percent of qualified costs results in a maximum credit allowed of \$50,000 per qualified employer. The credit allowed to a qualified employer cannot exceed \$5,000 per qualified employee that completes the training program. Because the estimated average credit max per employer is \$50,000, it is assumed that each employer would train at least 10 employees, each year, and generate approximately \$1.3 billion in credit annually.

It is estimated that 90 percent, or \$1.2 billion, would be earned by taxpayers who have tax liability to offset with the credit. Of those, it is estimated that 75 percent, or \$900 million, would be claimed in the year generated and the remaining 35 percent would go unused.

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

### **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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