



## **Analysis of Amended Bill**

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Sponsor:

Bill Number: AB 1726

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Introduced February 22, 2019,  
and Amended April 24, 2019

Attorney: Shane Hofeling

Related Bills: See Legislative  
History

**Subject:** California Work Opportunity Tax Credit

### **Summary**

This bill would, under the Personal Income Tax Law (PITL) and the Corporation Tax Law (CTL), provide a tax credit to certain employers that hire employees who are members of a targeted group.

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

**Recommendation – No position.**

### **Summary of Amendments**

The April 24, 2019, amendments modified the credit's operative date and made a number of technical changes.

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

### **Reason for the Bill**

The reason for the bill is to encourage the hiring of targeted group employees by offering a tax credit.

### **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.

### **Federal/State Law**

The Work Opportunity Tax Credit (WOTC) is a federal income tax credit available to employers who hire and retain veterans and individuals from targeted groups with significant barriers to employment. There is no limit on the number of individuals an employer can hire to qualify to claim the WOTC.

The amount of the WOTC employers may claim varies based on the target group of the individual hired, the wages paid to that individual in the first year of employment, and the number of hours that individual worked. There is a maximum amount of WOTC that can be earned for each targeted group.

For the long-term Temporary Assistance for Needy Families (TANF) target group only, the WOTC is available to employers who hire members of this group for up to a two-year period.

- In the first year, the employer may claim a tax credit equal to 40 percent of the first-year wages, up to the maximum tax credit, if the individual works at least 400 hours.
- In the second year, the employer may claim a tax credit equal to 50 percent of the second-year wages, up to the maximum tax credit, if the individual works at least 400 hours.

For all other target groups, the WOTC is available to employers who hire members of these groups, based on the individual's hours worked and wages earned in the first year.

- If the individual works at least 120 hours, the employer may claim a tax credit equal to 25 percent of the individual's first year wages, up to the maximum tax credit.
- If the individual works at least 400 hours, the employer may claim a tax credit equal to 40 percent of the individual's first year wages, up to the maximum tax credit.

## **State Law**

For taxable years beginning on or after January 1, 2014, and before January 1, 2021, current state law allows a New Employment Credit 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. In order to claim the state credit, the qualified taxpayer must receive a tentative credit reservation from the Franchise Tax Board (FTB) for that qualified full-time employee.<sup>1</sup>

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<sup>1</sup> California Revenue and Taxation Code sections 17053.73 and 23626.

## **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 qualified employer a California WOTC in an amount specified.

The bill would specify a calculation of the credit as follows:

- Allow a credit equal to 40 percent of the amount of wages paid by a qualified employer to a qualified individual in the first year.
- The credit amount would be limited to \$2,400 per qualified individual.
- The first \$5,000 of wages paid to a qualified individual are excluded from the calculation of the credit.
- The wages are required to be attributable to an employee from a targeted group<sup>2</sup>, who has worked at least 500 hours for the qualified taxpayer.

The bill would define the following terms and phrases:

- "California WOTC" means the California work opportunity tax credit.
- "Federal WOTC" means the federal work opportunity tax credit allowed by Section 51 of the Internal Revenue Code (IRC) as in effect on January 1, 2018.
- "Qualified employer" means a taxpayer that is an employer that is subject to, and is required to provide, unemployment insurance to the taxpayer's employees pursuant to the Unemployment Insurance Code.
- "Qualified individual" means any person who is covered by the unemployment insurance by his or her employer pursuant to the Unemployment Insurance Code.
- "Wages" means those wages subject to withholding<sup>3</sup> of the Unemployment Insurance Code.

In general, the bill would allow a credit to an employee that is a member of a targeted group, as defined in the IRC as follows:

- Is a qualified IV-A recipient
  - The term IV-A recipients any individual who is certified by the designated local agency as being a member of a family receiving assistance under IV-A program for any nine months during the 18-month period ending on the hiring date.

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<sup>2</sup> As defined in Section 51 (b) of the IRC.

<sup>3</sup> Under Division 6 (commencing with Section 13000).

- IV-A program means any program providing assistance under a state program funded under Part A of Title IV of the Social Security Act and any successor of such program.
- A qualified veteran
  - In general, the term qualified veteran means any veteran who is certified by the designated local agency as:
    - Being a member of a family receiving assistance under a supplemental nutrition assistance program for at least a three-month period ending during the 12-month period ending on the hire date.
    - Entitled to compensation for a service-connected disability and either:
      - Having a hiring date which is not more than one year after having been discharged or released from the active duty Armed Forces of the United States or
      - Having aggregate periods of unemployment during the one-year period ending on the hiring date which equal or exceed six months.
    - Having aggregate periods of unemployment during the one-year period ending on the hiring date which equal or exceed six months.
  - The term veteran means an individual who is certified by the designated local agency as:
    - Having served on active duty in the Armed Forces of the United States for a period of 180 days or
    - Having been discharged or released from active duty in the Armed Forces of the United States for a service-connected disability, and
    - Not having any day during the 60-day period ending on the hiring date which was a day of extended active duty in the Armed Forces of the United States.
  - The provisions of the IRC related to a credit allowed for unemployed veterans and disconnected Youth hired in 2009 or 2010 would not apply.
- A qualified ex-felon
- A vocational rehabilitation referral
- A qualified supplemental nutrition assistance program benefits recipient
- A qualified SSI recipient
- A long-term family assistance recipient
- A qualified long-term unemployment recipient

The bill states that the references to the “United States Employment Services” shall be modified to read, “The Employment Development Department (EDD), in consultation with the FTB.”

Further, the bill states that the special rules provided in the IRC would not apply for either agricultural labor and railway labor or certain Individuals not meeting minimum employment periods.<sup>4</sup>

The bill states that the qualified employer would be allowed the California WOTC in the taxable year in which the employer receives certification or in the taxable year in which the qualified employer paid or incurred the qualified first year wages.

The EDD would be required to issue certification of qualified individuals, consistent with the requirements of the federal WOTC, as modified by this bill. Absent such certification, no credit would be allowed.

The bill would allow the California WOTC to be carried over for up to 10 years until the credit is exhausted.

Deductions otherwise allowed for qualified wages paid or incurred would be required to be reduced by the amount of the California WOTC allowed.

The Department of Finance (DOF) would be required to estimate the total dollar amount of credits claimed under this section for each tax year from 2019-2020 fiscal year to 2025-2026 fiscal year.

The FTB would be required to provide an annual report to the Joint Legislative Budget Committee, no later than March 1, which includes the following:

- The total dollar amount of the credit claimed under this section with respect to the relevant fiscal year.
- A comparison of the total dollar amount of credits claimed to the DOF's estimate with respect to that same fiscal year.
- The number of tax returns claiming the credit.
- The number of qualified individuals represented on tax returns claiming the credit.

The credit would be repealed by its own terms on December 31, 2035.

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<sup>4</sup> Provided in IRC Section 51 (i)(3).

## **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 this and other concerns that may be identified.

As currently drafted, the bill adopts and modifies the IRC as in effect January 1, 2018. This version of the IRC states that "wages" shall not include any amount paid to an individual who begins work for the employer after December 31, 2019. Because the operative date of the bill is January 1, 2020, any compensation paid to otherwise qualified employees would be excluded from the definition of wages and ineligible for the credit. Further, because there would be no amounts meeting the definition of wages, there would be no data to include in the required report. To ensure clarity and consistency with the author's intent, this bill should be amended.

## **Legislative History**

AB 916 (Quirk-Silva & Arambula, 2017/2018) would have created a tax credit for certain employers that hire employees who are members of a targeted group. AB 916 failed to pass out of the Assembly by the constitutional deadline.

## **Other States' Information**

Review of *Florida, Illinois, and Massachusetts, and Minnesota*, law found no comparable tax credits relating to a state work opportunity tax credit. These states were selected and reviewed due to their similarities to California's economy, business entity types, and tax laws.

Review of *New York* law found that the state offers a credit against the corporate franchise tax for employing persons with disabilities. The credit is 35 percent of certain wages paid and will expire in 2020.

## **Fiscal Impact**

Department staff is unable to determine the costs to administer this bill until the implementation concern has been resolved.

## Economic Impact

### Revenue Estimate

This bill would result in the following revenue impact:

Estimated Revenue Impact of AB1726 as Amended April 24, 2019  
Assumed Enactment after June 30, 2019

(\$ in Millions)

<b>Fiscal Year</b>	<b>Revenue</b>
2019-2020	\$0.0
2020-2021	\$0.0
2021-2022	\$0.0

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 federal WOTC terminates wages for hires after December 31, 2019. Because the operative date of the bill is January 1, 2020, first year wages would not qualify for the credit by the terms of the bill. Therefore, the amount of the credit would be \$0.

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