STATE OF CALIFORNIA
Franchise Tax Board

Bill Analysis

Author: Lackey	Sponsor:	Bill Number: AB 3065
Analyst: Toni Arnold	Phone: (916) 845-4743	Introduced: February 21, 2020
Attorney: Shane Hofeling	Related Bills: See Legislative History	

SUBJECT

Homeless or Foster Youth Income 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 foster youth, former foster youth, or homeless youth.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

Not applicable.

REASON FOR THE BILL

The reason for the bill is to increase employment of at-risk youth by offering a tax incentive to employers that hire homeless youth, foster youth, or former foster youth.

ANALYSIS

This bill would, under the PITL and the CTL, allow a tax credit for qualified first-year wages paid or incurred by the qualified taxpayer during the taxable year to a qualified employee.

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

- Allow a credit of 40 percent of the amount of qualified first-year wages paid by a qualified taxpayer to a qualified employee that worked 400 hours or more during the first year of employment.
- Allow a credit of 25 percent of the amount of qualified first-year wages paid by a qualified taxpayer to a qualified employee that worked less than 400 hours during the first year of employment.
- The credit amount would be limited to $2,400 per qualified employee.

The bill would define the following terms and phrases:

- "Qualified first-year wages" means, with respect to any qualified employee, qualified wages attributable to service rendered during the one-year period commencing with the date the qualified employee begins work for the qualified taxpayer.
- "Qualified wages" means wages paid or incurred by the qualified taxpayer during the taxable year to qualified employees.
- "Wages" means wages subject to withholding.
- "Qualified taxpayer" means a taxpayer who pays or incurs qualified first-year wages.
- "Qualified employee" means an employee that meets both criteria: (1) Was hired on or after January 1, 2021, and (2) Is a "homeless youth" or a "foster youth or former foster youth," as defined.
- "First Year of Employment" means the first year the qualified employee renders services for the qualified taxpayer and is paid qualified first-year wages by the qualified taxpayer for those services.

The bill would define "homeless youth" as an individual who is no older than 26 years of age and who has been verified as a homeless child or youth (as defined in the federal McKinney-Vento Homeless Assistance Act (42 United States Code section 11434a(2))), by at least one of the following:

- A homeless services provider, as that term is defined in Health and Safety Code section 103577.
- The director of a federal TRIO program or Gaining Early Awareness and Readiness for Undergraduate Programs program, or a designee of that director. (TRIO programs are federal outreach and student servicers programs.)
- A financial aid administrator.

The bill would define "foster youth or former foster youth" as an individual who is no older than 26 years of age and who meets, or has ever met, either of the following:

- A child who was the subject of a petition filed pursuant to Welfare and Institutions Code (W&IC) section 300 and was removed from the child's home by the juvenile court pursuant to W&IC section 316 or 319.
- A child who was the subject of a petition filed pursuant to W&IC section 602 and was removed from the child's home by the juvenile court pursuant to W&IC section 727.

This credit would be in lieu of any other credit or deduction otherwise allowed under the PITL or CTL, with respect to wages paid to a qualified employee as used in the calculation of this credit.

The bill would allow unused credits to be carried over for up to six years until exhausted.

Section 3 of this bill contains language that would be excluded from the numbered sections of the Revenue and Taxation Code (R&TC). This bill would:

- Define the goal, purpose, and objection of the tax credit as expanding employment opportunities for homeless, foster, or former foster youth by creating hiring incentives that recognize these youth often lack the privilege of a stable upbringing and may need additional assistance in the workplace.
- Specify that the performance indicator as how many taxpayers are allowed the credit.
- Require the Franchise Tax Board (FTB) to annually publish a listing of credit data.

Effective/Operative Date

As a tax levy, the bill would be effective immediately upon enactment and specifically operative for taxable years beginning on or after January 1, 2021, and before January 1, 2026.

Federal/State Law

There are currently no federal or state credits comparable to the credit this bill would create.

Federal 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, including individuals that are qualified Supplemental Security Income recipients, individuals with a vocational rehabilitation referral, and qualified summer youth employees. There is no limit on the number of individuals an employer can hire to qualify to claim the WOTC. Employers are required to obtain certification on or before the beginning work date.

State Law

Current state law allows, for taxable years beginning on or after January 1, 2014, and before January 1, 2026, the 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. The qualified employee must meet any of certain conditions, including previous unemployment, veteran status, low income status, ex-offender convicted of a felony, or recipient of specified government assistance.

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 bill is silent on the method the qualified taxpayer would use to determine whether an employee is a "homeless youth" or a "foster youth or former foster youth," as defined. The employer may lack the expertise to determine that the employee is qualified for purposes of this credit. In addition, the FTB lacks the expertise to determine when the employee is qualified for purposes of this credit. The author may wish to include certification language that would specify responsibilities of a certifying agency and the qualified taxpayer. The language should also require that the certification be provided to the FTB upon request.

The bill would require the FTB to annually publish "data on the credits." To ensure the Legislature has the necessary data, the author may wish to amend the bill to specify the data to be published, the timing of the publication, the website location or manner of disclosure, and provide an exception for the disclosure of confidential taxpayer information in Article 2 (commencing with Section 19542) of Chapter 7 of Part 10.2 of Division 2 of the R&TC.

Technical Considerations

For consistency, the following changes are recommended:

- On page 2, line 20, replace "qualified wages of qualified employees" with "qualified first-year wages of qualified employees."
- On page 4, line 24, replace "qualified wages of qualified employees" with "qualified first-year wages of qualified employees."
- On page 6, line 5, replace the word "objection" with "objective."

Policy Concerns

None noted.

LEGISLATIVE HISTORY

AB 1169 (Frazier, 2019/2020) would have, under the PITL, allowed a credit to a qualified employer for wages paid to qualified employees. AB 1169 failed to pass out of the Assembly by the constitutional deadline.

AB 1726 (Arambula, 2019/2020) would have, under the PITL and the CTL, provided a tax credit to certain employers that hire employees who are members of a targeted group. AB 1726 failed to pass out of the Assembly by the constitutional deadline.

AB 2041 (Dahle, 2019/2020) as amended, would, under the PITL and the CTL, establish a credit for qualified wages paid to a qualified employee that is a former foster youth or ex-offender that is age 18 to 25 by a qualified taxpayer. AB 2041 remains in the Assembly Revenue and Taxation Committee.

SB 422 (Hueso, 2019/2020) would have, under the PITL and the CTL, allowed a credit to a qualified employer for wages paid to certain full-time employees. SB 422 failed to pass out of the Assembly Appropriations Committee.

SB 1333 (Durazo, et al., 2019/2020) would, under the CTL, create the California Homeless Hiring Tax Credit, available to a qualified taxpayer that employs an eligible individual. SB 1333 remains in the Senate Governance and Finance Committee.

PROGRAM BACKGROUND

None noted.

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.

ECONOMIC IMPACT

The goal, purpose, or objection of this credit is to expand employment opportunities for homeless, foster, or former foster youth by creating hiring incentives that recognize these youth often lack the privilege of a stable upbringing and may need additional assistance in the workplace.

Revenue Estimate

This bill would result in the following revenue loss:

Estimated Revenue Impact of AB 3065 as Introduced on February 21, 2020
Assumed Enactment after June 30, 2020

($ in Millions)

Fiscal Year	Revenue
2020-2021	-$2.4
2021-2022	-$7.1
2022-2023	-$9.2

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

Based on data from The United States Interagency Council on Homelessness, the United States Census, and various studies, it is estimated in 2021, there would be approximately 34,000 homeless, foster, or former foster youths no older than 26 and able to seek employment in California. It is estimated that 20 percent, or 6,800, of these qualified youths would be hired for the first time. To determine the estimated credit, four different scenarios of hours worked with an assumed minimum wage of $14 per hour were evaluated. This results in an estimated average credit of $2,100 per qualified employee and a total credit of $14.2 million in the 2021 taxable year.

It is estimated that 80 percent, including the S corporation adjustment, or $11.3 million, would be earned by taxpayers with sufficient tax liability to offset with the credit. Of that amount 70 percent, or $7.8 million, would be claimed in the year generated and the remaining 30 percent would be claimed in subsequent years.

To arrive at the offsetting tax effect of expense deduction that would otherwise be allowed under current law, it is estimated that qualified taxpayers would be unable to deduct approximately $37.1 million in qualified expenses in taxable year 2021. Applying an average tax rate of 6 percent, results in an offsetting revenue gain of $2.2 million. The resulting net revenue loss for taxable year 2021 would be $5.6 million.

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

LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

None noted.

ARGUMENTS

To be determined.

LEGISLATIVE STAFF CONTACT

Toni Arnold
Legislative Analyst, FTB
(916) 845-4743
toni.arnold@ftb.ca.gov

Tiffany Christiansen
Revenue Manager, FTB
(916) 845-5346
tiffany.christiansen@ftb.ca.gov

Annette Kunze
Legislative Director, FTB
(916) 845-6333
annette.kunze@ftb.ca.gov