



## Bill Analysis

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Sponsor:

Bill Number: AB 264

Related Bills: See Legislative  
History

Introduced: January 15, 2021

## SUBJECT

California Competes Credit: Increased Allocation for Pharmaceutical Companies

## SUMMARY

This bill, for the 2021-2022 and 2022-2023 fiscal years, would increase the total amount of California Competes Tax Credits (CCTC) that may be allocated and would require that those additional credit allocations be reserved for pharmaceutical companies.

## RECOMMENDATION

No position.

## SUMMARY OF AMENDMENTS

Not applicable.

## REASON FOR THE BILL

The reason for this bill is to provide additional credits to pharmaceutical companies.

## ANALYSIS

This bill would, under the Personal Income Tax Law (PITL) and Corporation Tax Law (CTL), allocate an additional ten million dollars in total to the CCTC for the 2021-2022 and the 2022-2023 fiscal years. The additional ten million dollars being allocated by this bill, shall be reserved for pharmaceutical companies, as defined.

### *Effective/Operative Date*

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

### *Federal/State Law*

### *Federal Law*

No provision comparable in federal law.

### *State Law*

The CCTC is an income or franchise tax credit available to businesses that come to California or stay and grow in California. CCTC agreements are negotiated by the Governor's Office of Business and Economic Development (GO-Biz) and approved by the CCTC Committee (Committee), consisting of the State Treasurer, the Director of the Department of Finance, the Director of GO-Biz (Chair), and one appointee each by the Speaker of the Assembly and Senate Committee on Rules.

Upon approval of the tax credit agreement by the Committee, GO-Biz informs the Franchise Tax Board (FTB) of the terms and conditions of the written agreement. The FTB reviews the books and records of taxpayers allocated a CCTC to ensure that the taxpayer complied with the terms and conditions of the written agreement. In the case of a small business, the FTB reviews the books and records of the taxpayer if it deems the review appropriate or necessary in the best interest of the state. If the FTB determines that a possible breach of the agreement has occurred, GO-Biz is provided detailed information regarding the basis of the possible breach.

The credit is available for taxable years beginning on or after January 1, 2014, and before January 1, 2030, and will be repealed on December 1, 2030.

### *Implementation Considerations*

Implementing this bill would require some changes to existing tax forms and instructions and information systems, which could be accomplished during the normal annual update.

### *Technical Considerations*

Under Revenue and Taxation Code (R&TC) section 41, legislation that would create a new tax expenditure, which includes a credit, deduction, exclusion, exemption, or any other tax benefit as provided for by the state, is required to include specific goals, purposes, objectives, and performance measures to allow the Legislature to evaluate the effectiveness of the tax benefit. These requirements apply to the increased allocation this bill would allow and not all of the credits. It's recommended the bill be amended as follows to clarify:

- On page 16, line 15, after the term, "credits," insert, "allocated pursuant to subdivision (g)(5) of Sections 17059.2 and 23689, as added by this act,"
- On page 16, line 24, after the term, "credits," insert, "allocated pursuant to subdivision (g)(5) of Sections 17059.2 and 23689, as added by this act."

For consistency of terminology, the following change is recommended:

- On page 14, line 20, the section number referenced "23689" should be replaced with "17059.2."

### *Policy Considerations*

None noted.

### **LEGISLATIVE HISTORY**

SB 51 (Durazo, et al., 2019/2020), would have under the R&TC allowed qualified taxpayers to obtain a refund of their CCTC, which must be used to invest in specified property in the state. SB 51 did not pass out of the Assembly.

SB 855 (Committee on Budget and Fiscal Review, Chapter 52, Statutes of 2018), under the PITL and CTL, among other provisions, extended the CCTC to include taxable years before January 1, 2030.

AB 1716 (Committee of Jobs, Economic Development and Economy, 2017/2018) would have, under the PITL and CTL, extend the sunset date of the CCTC. AB 1716 did not pass out of the Assembly by the constitutional deadline.

AB 1560 (Quirk-Silva, et al., Chapter 378, Statutes of 2014), modified the funding for the CCTC.

AB 93 (Assembly Committee on Budget, Chapter 69, Statutes of 2013), repealed the geographically targeted economic development area tax incentives and the New Jobs Tax Credit under the PITL and CTL, created a New Hiring Tax Credit, established the California Competes Tax Credit Committee, and created the CCTC under the PITL and CTL.

### **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**

#### *Revenue Estimate*

In accordance with the bill provisions, staff defers to the Department of Finance to determine the revenue impact of this bill.

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 amount and timing of the exchange is subject to the private equity share agreement between Go-Biz and the taxpayer. Staff defers to the Department of Finance for the estimated revenue loss for this credit.

## **LEGAL IMPACT**

None noted.

## **APPOINTMENTS**

None noted.

## **SUPPORT/OPPOSITION**

To be determined.

## **ARGUMENTS**

None noted.

## **LEGISLATIVE CONTACT**

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