STATE OF CALIFORNIA
Franchise Tax Board

Bill Analysis

Author: Muratsuchi	Sponsor:	Bill Number: AB 1428
	Related Bills: See Legislative History	Amended: March 28, 2025, and April 9, 2025

SUBJECT

California Affordable Childcare Act

SUMMARY

This bill would, under the Personal Income Tax Law (PITL) and Corporation Tax Law (CTL), impose a 0.5% tax on certain taxpayers with income that exceeds $10 million, with certain exceptions, for taxable years beginning on or after January 1, 2026, and before January 1, 2031. Under the Administration of Income and Franchise Tax Law (AFITL), this bill would create the Affordable Childcare Reimbursement Fund in the State Treasury to fund grants that would be made available to licensed childcare facilities beginning in the 2027-2028 fiscal year.

RECOMMENDATION

No position—The three-member Franchise Tax Board has not formally voted or taken a position on this bill.

SUMMARY OF AMENDMENTS

The March 28, 2025, amendments removed intent language relating to the California Affordable Childcare Act and replaced it with the provisions discussed in this analysis.

The April 9, 2025, amendments modified the tax rate and added a sunset date.

This is the Franchise Tax Board's (FTB) first analysis of the bill and only addresses the provisions that would impact the FTB.

REASON FOR THE BILL

The reason for the bill is to encourage employers to provide childcare services for employees or reimburse employees for their childcare expenses and to provide grants to licensed childcare facilities for purposes of lowering childcare service rates and hiring additional childcare employees.

ANALYSIS

The Additional Tax

This bill would, under the PITL and CTL, impose a 0.5% tax on the portion of a taxpayer's income that exceeds $10 million for taxable years beginning on or after January 1, 2026, and before January 1, 2031. This tax would be in addition to the taxes imposed under the PITL and CTL.

For purposes of the PITL, the additional tax would apply to a taxpayer who employs one or more employees, either as an individual or through a partnership, limited liability company, or similar business enterprise, of which the taxpayer is a partner, member, owner, or beneficial owner.

For purposes of the CTL, the additional tax would apply to any corporation that employs one or more employees.

A taxpayer that meets either of the following requirements would not be subject to the 0.5% additional tax:

- Provides childcare for their employees during work hours.
- Fully reimburses employees for necessary childcare services.

The additional tax would be repealed on December 1, 2031.

Affordable Childcare Reimbursement Fund and Grants

This bill would, under the AFITL, create the Affordable Childcare Reimbursement Fund in the State Treasury. All revenues from the additional tax proposed by this bill would be deposited into the fund, less the amount of reimbursement to the FTB for the administration of the tax, for the State Treasurer to fund grants starting in the 2027-2028 fiscal year.

Effective/Operative Date

This bill would be effective January 1, 2026. The provision establishing the fund would be operative January 1, 2026, and the provisions imposing the tax would be operative for taxable years beginning on or after January 1, 2026, and before January 1, 2031.

Federal/State Law

Federal Law

For each taxable year, existing federal law imposes a personal income tax on most United States (US) citizens and permanent residents, who work in the US, if their taxable income exceeds certain specified amounts. The federal tax rates range from 10% to 37%.

State Law

Existing state income tax law imposes nine different personal income tax rates, ranging from 1% to 12.3%. Additionally, there is a 1% Mental Health Services Tax on the portion of a taxpayer's taxable income that exceeds $1 million.

Implementation Considerations

The FTB has identified the following considerations and is available to work with the author's office to resolve these and other considerations that may be identified.

This bill uses undefined terms, e.g., "similar business enterprise" and "necessary child care services." The absence of definitions could lead to taxpayer confusion. For clarity, the author may wish to amend the bill to define these terms.

The bill provides that the FTB would deposit the additional 0.5% tax in the Affordable Childcare Reimbursement Fund for the State Treasurer to fund grants as specified. However, the bill does not provide which state agency would administer the grants allowed by this bill.

The bill is silent on whether the $10 million income threshold would apply to all of the taxpayer's income or only the amount that flows from the partnership to the taxpayer. The author may wish to amend the bill to clarify.

The bill does not specify whether this tax would be treated as income taxes imposed under the PITL or CTL, which could complicate administration. For clarity, the author may want to amend the bill to specify that this additional tax be treated as if imposed under Section 17041 and 23151 and specify whether credits allowed under the CTL or PITL could be applied to this additional tax.

Technical Considerations

For consistency of terminology, the following changes are recommended:

- In Sections 17043.5(a) and 23151.5(a), replace, "For each taxable year beginning on…" with "For taxable years beginning on…"
- In Section 17043.5(a) replace, "…a taxpayer's income in excess of…" with "…a taxpayer's taxable income in excess of…"
- In Section 23151.5(a), replace "…a corporation's income in excess of…" with "…a corporation's net income in excess of…"

For grammatical consistency, throughout the bill, strikeout "child care" and replace with "childcare".

The term "owner" and "beneficial owner" are used interchangeably in the bill. For consistency, it is best to use the same term throughout the bill. If the author wishes to use both terms, the author may wish to amend the bill to define both terms.

Policy Considerations

None noted.

LEGISLATIVE HISTORY

AB 2351 (Eggman, 2017/2018) would have under the Education Code, created the Higher Education Assistance Fund, and, under PITL, created an additional 1% tax on taxable income in excess of $1 million. AB 2351 did not pass out of the Assembly by the constitutional deadline.

PROGRAM BACKGROUND

Proposition 63, approved by voters in the November 2004 General Election, enacted the Mental Health Services Act, which imposes a 1% tax on taxable incomes in excess of $1 million for taxable years beginning on or after January 1, 2005, to provide a dedicated funding source for mental health treatment options for children, adults, and seniors.

Prior state law allowed employers a tax credit under both the PITL, and the CTL known as the Employer Child Care Program Credit for taxable years beginning on or after January 1, 1995, and before January 1, 2012. This credit equaled 30% of the costs for (1) establishing a childcare program or constructing a childcare facility in California that was to be used by employees' children, and (2) contributing to childcare information and referral services. Building owners were allowed a credit equal to 30% of their costs to establish a childcare program or facility to be used by their tenants' employees' children. The amount of the credit was limited to $50,000. To the extent that the allowed credit may not be used, the credit could be carried over. The carryover amount may have been added to any credit for that succeeding year, which was still limited to $50,000.

OTHER STATES' INFORMATION

None noted.

FISCAL IMPACT

The FTB's costs to implement this bill have yet to be determined. As the bill moves through the legislative process, costs will be determined.

ECONOMIC IMPACT

Revenue Estimate

This bill would result in the following revenue gain:

Estimated Revenue Impact of AB 1428 Amended April 9, 2025
Assumed Enactment after June 30, 2025

($ in Millions)

Fiscal Year	Revenue
2025-2026	+$210
2026-2027	+$460
2027-2028	+$460

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 impose an additional tax of 0.5% on the portion of a taxpayer's taxable income that exceeds $10 million.

Using FTB data, approximately 7,400 returns reported taxable income in excess of $10 million 2023 taxable year. This number was grown to reflect changes in the economy over time resulting in an estimated 7,700 taxpayers with taxable income in excess of $10 million in the 2026 taxable year. Of those, it is assumed 30%, or 2,100, would have direct or indirect income from a business that employs at least one person and does not provide childcare services or full reimbursement for childcare services. This results in an estimated $92 billion in taxable income in excess of $10 million. Applying the 0.5% tax rate to this amount results in an estimated revenue gain of about $460 million in the 2026 taxable year.

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.

EQUITY IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

To be determined.

ARGUMENTS

To be determined.

LEGISLATIVE CONTACT

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