



STATE OF CALIFORNIA
Franchise Tax Board

Bill Analysis

Author: Caballero and Limón, et al. Sponsor:

Bill Number: SB 1349

Related Bills: See Legislative History

Introduced: February 18, 2022
Amended: March 21, 2022

SUBJECT

California Work Opportunity Credit

SUMMARY

This bill would, under the Personal Income Tax Law (PITL) and the Corporation Tax Law (CTL), provide a tax credit that is equal to either the lesser of the federal work opportunity credit or one thousand dollars (\$1,000) to qualified taxpayer(s) that claimed the federal work opportunity credit.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The March 21, 2022, amendments revised the tax credit requirements and defined a new term.

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

REASON FOR THE BILL

The reason for the bill is to provide additional tax incentives for employers to hire and retain certain individuals who may face employment barriers.

ANALYSIS

This bill would, under the PITL and CTL, for taxable years beginning on or after January 1, 2023, and before January 1, 2026, allow a credit to a qualified taxpayer for each qualified employee in an amount equal to the lesser of either:

- The full amount of the federal work opportunity credit claimed for the qualified employee during the taxable year.
- One thousand dollars (\$1,000).

Introduced February 18, 2022, and Amended March 21, 2022

This bill defines the following terms:

- "Federal work opportunity credit" means the federal work opportunity tax credit allowed by Section 51 of the Internal Revenue Code (IRC).
- "Qualified employee" means an individual employed by the qualified taxpayer who claimed the federal work opportunity credit for that individual and paid wages subject to withholding under the Unemployment Insurance Code (UIC) during the taxable year for that individual.
- "Qualified taxpayer" means a taxpayer that is allowed to claim a federal work opportunity credit on the federal return and pays employees' wages subject to withholding under the UIC.

The bill would allow the credit to be carried over for up to three (3) 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 this credit. The credit would be taken in lieu of any other credit the qualified taxpayer may claim for wages paid to a qualified employee.

The credit would be repealed by its own terms on December 1, 2026.

In compliance with RTC section 41, the purpose of the tax expenditure would be to encourage businesses to employ individuals who face employment barriers and identify the number of taxpayers claiming the credit. The Legislative Analyst's Office (LAO) would be required on or before December 1, 2026, to collaborate with FTB to review the effectiveness of the credit and provide findings to the Legislature.

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, 2023, and before January 1, 2026.

Federal/State Law

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. There is no limit on the number of individuals an employer can hire to qualify to claim the WOTC.

Introduced February 18, 2022, and Amended March 21, 2022

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.

The Consolidated Appropriations Act (CAA), 2021 (PL 116-260) extended the federal WOTC until December 31, 2025, and applies to individuals who begin work for employers after December 31, 2020.

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 (NEC) 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 economic development area. 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.

Introduced February 18, 2022, and Amended March 21, 2022

Current state laws allows for taxable years beginning on or after January 1, 2022, and before January 1, 2027, the Homeless Hiring credit, not to exceed thirty thousand dollars (\$30,000) per taxpayer per taxable year, for a qualified taxpayer that employs an eligible individual. The qualified taxpayer must pay wages subject to withholding under UIC and pay at least 120 percent (120%) of minimum wage. The eligible individual must be homeless during a specified timeframe and have been issued a non-expired certification by a continuum of care or community-based service provider.

For each taxable year beginning on or after January 1, 2020, and before January 1, 2022, current state law allows a Main Street Small Business Tax Credit to a qualified small business employer that received a tentative credit reservation. The credit is equal to one thousand dollars (\$1,000) for each net increase in qualified employees, not to exceed one hundred fifty-thousand dollars (\$150,000) for any qualified small business employer

Implementation Considerations

None noted.

Technical Considerations

It is recommended that in Section 23621.1. (c), the term "net tax" should be replaced with "tax."

Additionally for clarity, the following changes should be made in Section 17053.10 (b)(1) and 23621.1 (b)(1): "Federal work opportunity credit" means the work opportunity tax credit allowed under Section 51 of the Internal Revenue Code, *relating to amount of credit, as applicable for federal income tax purposes for the taxable year for wages paid or incurred by an employer to certain individuals specified in that section.*

Policy Considerations

None noted.

LEGISLATIVE HISTORY

AB 150 (Committee on Budget, Chapter 82, Statutes of 2021) made various statutory changes related to implementing the 2021 Budget Act. Provision #2 – Main Street Small Business Tax Credit, Part II, for the taxable year beginning on or after January 1, 2021, and before January 1, 2022, under the Sales and Use Tax Law (SUTL), the PITL, and the CTL, allowed a qualified small business employer a small business hiring credit, subject to receiving a tentative credit reservation. Provision #5 – Homeless Hiring Tax Credit, allowed under the PITL and the CTL, a qualified taxpayer that employed an eligible individual to receive a tax credit in an amount, not to exceed thirty thousand dollars (\$30,000) per taxpayer per taxable year.

Introduced February 18, 2022, and Amended March 21, 2022

SB 553 (Limon, 2021/2022) would have allowed a qualified employer, a California WOTC in an amount determined in accordance with the federal WOTC, as applicable for federal tax purposes for the taxable year. SB 553 did not pass out of the Senate Committee on Appropriations.

AB 1726 (Arambula, 2019/2020) and 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 1726 did not pass out of the Assembly by the constitutional deadline, and AB 916 did not pass out of the Senate Committee on Appropriations.

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

This bill would result in the following revenue loss

Estimated Revenue Impact of AB1349 as Amended on March 21, 2022

Assumed Enactment after June 30, 2022

(\$ in Millions)

Fiscal Year	Revenue
2022-2023	-\$27
2023-2024	-\$80
2024-2025	-\$95

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.

Introduced February 18, 2022, and Amended March 21, 2022

Revenue Discussion

This estimate is based on the proration of the Joint Committee on Taxation (JCT) federal estimate for the WOTC. In December 2020, JCT estimate the federal loss in taxable year 2023 would be three (\$3) billion. California's taxpayers account for approximately eight (8) percent, or \$240 million, of the total WOTC earned. An adjustment of approximately \$160 million was made to account for federal and state differences in the calculation of the credit, as well as for taxpayers who would take the federal WOTC but not the California WOTC. This would result in credits generated of approximately \$80 million in the 2023 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.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

The Senate Governance and Finance Committee analysis of SB 1349, dated March 21, 2022, lists the following support and opposition:

Support

Asian, INC., Automotive Service Councils of California, Beaumont Chamber of Commerce, Big Bear Chamber of Commerce, Build Out California, Burbank Chamber of Commerce, Cal Grocers Association, Calasian Chamber of Commerce, Calchamber, California Attractions and Parks Association, California Autobody Association, California Automotive Business Coalition, California Beer and Beverage Distributors, California Building Industry Association (CBIA), California Business Roundtable, California Delivery Association, California Hispanic Chamber of Commerce, California Manufacturers and Technology Association, California Restaurant Association, California Retailers Association, California Small Business Association, California Urban Partnership, California's Women's Business Centers, Cameo - California Association for Micro Enterprise Opportunity, Chino Valley Chamber of Commerce, Coalition of Small and Disabled Veteran Businesses, Corona Chamber of Commerce, Flasher Barricade Association, Fontana Chamber of Commerce, Greater Coachella Valley Chamber of Commerce, Greater High Desert Chamber of Commerce, Greater Ontario Business Council Gusto, Hemet San Jacinto Valley Chamber of Commerce, Highland Area Chamber of Commerce, Inland Empire

Introduced February 18, 2022, and Amended March 21, 2022

Economic Partnership (IEEP), Menifee Valley Chamber of Commerce, Moreno Valley Chamber of Commerce, Murrieta Wildomar Chamber of Commerce, National Employment Opportunity Network, National Federation of Independent Business – California, Orange County Business Council, Perris Valley Chamber of Commerce, Rancho Cucamonga Chamber of Commerce, Redlands Chamber of Commerce, Sacramento Asian Pacific Chamber of Commerce, Sacramento Regional Builders Exchange (SRBX), Slavic-American Chamber of Commerce, Small Business California, Small Business Majority, Temecula Valley Chamber of Commerce, United Chambers of Commerce, Upland Chamber of Commerce

Opposition

California Tax Reform Association

ARGUMENTS

To be determined.

LEGISLATIVE CONTACT

FTBLegislativeServices@ftb.ca.gov