

AMENDED IN ASSEMBLY APRIL 29, 2013

AMENDED IN ASSEMBLY APRIL 8, 2013

AMENDED IN ASSEMBLY APRIL 1, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 927

Introduced by Assembly Member Muratsuchi

February 22, 2013

An act to add Sections 17053.81 and ~~23623.1~~ and 23623.1 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 927, as amended, Muratsuchi. Income taxes: credits: hiring.

The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws.

This bill would, under both laws, for taxable years beginning on or after January 1, 2014, allow a credit to a qualified employer, as defined, in an amount equal to \$3,000 for each net increase in qualified full-time employee hired during the taxable year by a qualified employer, and an additional \$1,000 per qualified full-time employee hired during the taxable year by a qualified employer if the qualified full-time employee is a veteran or an additional \$2,000 per qualified full-time employee hired during the taxable year by a qualified employer if the qualified full-time employee is a service-connected disabled veteran, as provided. This bill would limit the total amount of credit allowed to a qualified employer to an amount not to exceed \$5,000,000 for all taxable years. This bill would cap the total amount of credit which may be allowed under those provisions for any calendar year to \$35,000,000.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature to create a
2 competitive tax policy for businesses involved with research,
3 development, and manufacturing.

4 SEC. 2. Section 17053.81 is added to the Revenue and Taxation
5 Code, to read:

6 17053.81. (a) (1) For each taxable year beginning on or after
7 January 1, 2014, there shall be allowed to a qualified employer a
8 credit against the “net tax,” as defined in Section 17039, in an
9 amount described in paragraph (2).

10 (2) The amount of credit allowed under this section is as follows:

11 (A) (i) Three thousand dollars (\$3,000) for each net increase
12 in qualified full-time employee hired during the taxable year by a
13 qualified employer.

14 (ii) An additional one thousand dollars (\$1,000) per qualified
15 full-time employee hired during the taxable year by a qualified
16 employer if the qualified full-time employee is a veteran or an
17 additional two thousand dollars (\$2,000) per qualified full-time
18 employee hired during the taxable year by a qualified employer if
19 the qualified full-time employee is a service-connected disabled
20 veteran, *as measured by the percentage of increase in an annual*
21 *full-time equivalent that the veteran or service-connected disabled*
22 *veteran represents.*

23 (B) The total amount of credits allowed under this section to a
24 qualified employer shall not exceed five million dollars
25 (\$5,000,000) for all taxable years.

26 (b) For purposes of this section:

27 (1) “Annual full-time equivalent” means either of the following:

28 (A) In the case of a full-time employee paid hourly qualified
29 wages, “annual full-time equivalent” means the total number of
30 hours worked for the taxpayer by the employee (not to exceed
31 2,000 hours per employee) divided by 2,000.

32 (B) In the case of a salaried full-time employee, “annual
33 full-time equivalent” means the total number of weeks worked for
34 the taxpayer by the employee divided by 52.

1 ~~(2) “Qualified full-time employee” means either of the~~
2 ~~following:~~

3 ~~(A) An employee who was paid wages subject to Division 6~~
4 ~~(commencing with Section 13000) of the Unemployment Insurance~~
5 ~~Code by the qualified employer for services of not less than an~~
6 ~~average of 35 hours per week.~~

7 ~~(B) An employee who was a salaried employee and was paid~~
8 ~~compensation during the taxable year for full-time employment,~~
9 ~~within the meaning of Section 515 of the Labor Code, by the~~
10 ~~qualified employer.~~

11 ~~(3)~~

12 (2) “Qualified employer” means a taxpayer who employed
13 qualified full-time employees who are located in this state and
14 meets any of the following:

15 (A) The taxpayer manufactures, assembles, tests, renovates, or
16 converts aircraft and spacecraft.

17 (B) The taxpayer manufactures or designs aircraft or spacecraft
18 engines and engine parts.

19 (C) The taxpayer manufactures or designs aircraft and spacecraft
20 auxiliary components, including detection equipment, navigation,
21 and guidance systems.

22 (D) The taxpayer provides aircraft and spacecraft support
23 services, including launching, operating, and retrieving air and
24 space vehicles.

25 ~~(E) The taxpayer is a military contractor that is involved with~~
26 ~~aerospace defense has contracted with the United States military~~
27 ~~or federal government for the purpose of national defense related~~
28 ~~to aerospace, including the manufacturing of missiles and military~~
29 ~~airplanes.~~

30 (3) “Qualified full-time employee” means either of the
31 following:

32 (A) An employee who was paid wages subject to Division 6
33 (commencing with Section 13000) of the Unemployment Insurance
34 Code by the qualified employer for services of not less than an
35 average of 35 hours per week.

36 (B) An employee who was a salaried employee and was paid
37 compensation during the taxable year for full-time employment,
38 within the meaning of Section 515 of the Labor Code, by the
39 qualified employer.

1 (4) “Service-connected disabled veteran” means a veteran who
2 is disabled by an injury or illness that was incurred or aggravated
3 during active military service.

4 (5) “Veteran” means a person honorably discharged from the
5 Armed Forces of the United States.

6 (c) The net increase in qualified full-time employees of a
7 qualified employer shall be determined as provided by this
8 subdivision:

9 (1) (A) The net increase in qualified full-time employees shall
10 be determined on an annual full-time equivalent basis by
11 subtracting from the amount determined in subparagraph (C) the
12 amount determined in subparagraph (B).

13 (B) The total number of qualified full-time employees employed
14 in the preceding taxable year by the taxpayer and by any trade or
15 business acquired by the taxpayer during the ~~preceding~~ current
16 taxable year.

17 (C) The total number of full-time employees employed in the
18 current taxable year by the taxpayer and by any trade or business
19 acquired during the current taxable year.

20 (2) For taxpayers who first commence doing business in this
21 state during the taxable year, the number of full-time employees
22 for the immediately preceding prior taxable year shall be zero.

23 (d) For purposes of this section:

24 (1) All employees of the trades or businesses that are treated as
25 related under either Section 267, 318, or 707 of the Internal
26 Revenue Code shall be treated as employed by a single taxpayer.

27 (2) In determining whether the taxpayer has first commenced
28 doing business in this state during the taxable year, the provisions
29 of subdivision (f) of Section ~~17276~~ 17276.20, without application
30 of paragraph (7) of that subdivision, shall apply.

31 (e) (1) The aggregate amount of credits that may be allowed
32 for any ~~calendar~~ taxable year under this section and Section
33 23623.1 shall not exceed an amount equal to thirty-five million
34 dollars (\$35,000,000).

35 (2) The credits allowed under this section and Section 23623.1
36 shall be allowed to a taxpayer on a first-come-first-served basis.

37 (3) The taxpayer shall claim the credit on a timely filed original
38 return.

39 (4) The date a return is received shall be determined by the
40 Franchise Tax Board.

1 (5) (A) The determinations of the Franchise Tax Board with
2 respect to the date a return is received and whether a return has
3 been timely filed for purposes of this subdivision may not be
4 reviewed in any administrative or judicial proceeding.

5 (B) Any disallowance of a credit claimed due to a determination
6 under this subdivision, including the application of the limitation
7 specified in paragraph (1), shall be treated as a mathematical error
8 appearing on the return. Any amount of tax resulting from such
9 disallowance may be assessed by the Franchise Tax Board in the
10 same manner as provided by Section 19051.

11 (6) The Franchise Tax Board shall periodically provide notice
12 on its *Internet* Web site with respect to the amount of credit under
13 this section and Section 23623.1 claimed on timely filed original
14 returns received by the Franchise Tax Board.

15 ~~(f) In the case where the credit allowed by this section exceeds
16 the "net tax," the excess may be carried over to reduce the "net
17 tax" in the following year, and succeeding years if necessary, until
18 the credit is exhausted.~~

19 ~~(g)~~

20 (f) (1) The Franchise Tax Board may prescribe rules, guidelines,
21 or procedures necessary or appropriate to carry out the purposes
22 of this section, *including any guidelines necessary to avoid the
23 application of subparagraph (B) of paragraph (2) of subdivision
24 (a) through split-ups, shell corporations, partnerships, tiered
25 ownership structures, or otherwise.*

26 (2) Chapter 3.5 (commencing with Section 11340) of Part 1 of
27 Division 3 of Title 2 of the Government Code does not apply to
28 any standard, criterion, procedure, determination, rule, notice, or
29 guideline established or issued by the Franchise Tax Board
30 pursuant to this section.

31 SEC. 3. Section 23623.1 is added to the Revenue and Taxation
32 Code, to read:

33 23623.1. (a) (1) For each taxable year beginning on or after
34 January 1, 2014, there shall be allowed to a qualified employer a
35 credit against the "tax," as defined in Section 23036, in an amount
36 described in paragraph (2).

37 (2) The amount of credit allowed under this section is as follows:

38 (A) (i) Three thousand dollars (\$3,000) for each net increase
39 in qualified full-time employee hired during the taxable year by a
40 qualified employer.

1 (ii) An additional one thousand dollars (\$1,000) per qualified
 2 full-time employee hired during the taxable year by a qualified
 3 employer if the qualified full-time employee is a veteran or an
 4 additional two thousand dollars (\$2,000) per qualified full-time
 5 employee hired during the taxable year by a qualified employer if
 6 the qualified full-time employee is a service-connected disabled
 7 veteran, *as measured by the percentage of increase in an annual*
 8 *full-time equivalent that the veteran or service-connected disabled*
 9 *veteran represents.*

10 (B) The total amount of credits allowed under this section to a
 11 qualified employer shall not exceed five million dollars
 12 (\$5,000,000) for all taxable years.

13 (b) For purposes of this section:

14 (1) “Annual full-time equivalent” means either of the following:

15 (A) In the case of a full-time employee paid hourly qualified
 16 wages, “annual full-time equivalent” means the total number of
 17 hours worked for the taxpayer by the employee (not to exceed
 18 2,000 hours per employee) divided by 2,000.

19 (B) In the case of a salaried full-time employee, “annual
 20 full-time equivalent” means the total number of weeks worked for
 21 the taxpayer by the employee divided by 52.

22 ~~(2) “Qualified full-time employee” means either of the~~
 23 ~~following:~~

24 ~~(A) An employee who was paid wages subject to Division 6~~
 25 ~~(commencing with Section 13000) of the Unemployment Insurance~~
 26 ~~Code by the qualified employer for services of not less than an~~
 27 ~~average of 35 hours per week.~~

28 ~~(B) An employee who was a salaried employee and was paid~~
 29 ~~compensation during the taxable year for full-time employment,~~
 30 ~~within the meaning of Section 515 of the Labor Code, by the~~
 31 ~~qualified employer.~~

32 ~~(3)~~

33 (2) “Qualified employer” means a taxpayer who employed
 34 qualified full-time employees who are located in this state and
 35 meets any of the following:

36 (A) The taxpayer manufactures, assembles, tests, renovates, or
 37 converts aircraft and spacecraft.

38 (B) The taxpayer manufactures or designs aircraft or spacecraft
 39 engines and engine parts.

1 (C) The taxpayer manufactures or designs aircraft and spacecraft
2 auxiliary components, including detection equipment, navigation,
3 and guidance systems.

4 (D) The taxpayer provides aircraft and spacecraft support
5 services, including launching, operating, and retrieving air and
6 space vehicles.

7 (E) ~~The taxpayer is a military contractor that is involved with~~
8 ~~aerospace defense~~ *has contracted with the United States military*
9 *or federal government for the purpose of national defense related*
10 *to aerospace, including the manufacturing of missiles and military*
11 *airplanes.*

12 (3) *“Qualified full-time employee” means either of the*
13 *following:*

14 (A) *An employee who was paid wages subject to Division 6*
15 *(commencing with Section 13000) of the Unemployment Insurance*
16 *Code by the qualified employer for services of not less than an*
17 *average of 35 hours per week.*

18 (B) *An employee who was a salaried employee and was paid*
19 *compensation during the taxable year for full-time employment,*
20 *within the meaning of Section 515 of the Labor Code, by the*
21 *qualified employer.*

22 (4) *“Service-connected disabled veteran” means a veteran who*
23 *is disabled by an injury or illness that was incurred or aggravated*
24 *during active military service.*

25 (5) *“Veteran” means a person honorably discharged from the*
26 *Armed Forces of the United States.*

27 (c) The net increase in qualified full-time employees of a
28 qualified employer shall be determined as provided by this
29 subdivision:

30 (1) (A) The net increase in qualified full-time employees shall
31 be determined on an annual full-time equivalent basis by
32 subtracting from the amount determined in subparagraph (C) the
33 amount determined in subparagraph (B).

34 (B) The total number of qualified full-time employees employed
35 in the preceding taxable year by the taxpayer and by any trade or
36 business acquired by the taxpayer during the ~~preceding~~ *current*
37 taxable year.

38 (C) The total number of full-time employees employed in the
39 current taxable year by the taxpayer and by any trade or business
40 acquired during the current taxable year.

1 (2) For taxpayers who first commence doing business in this
2 state during the taxable year, the number of full-time employees
3 for the immediately preceding prior taxable year shall be zero.

4 (d) For purposes of this section:

5 (1) All employees of the trades or businesses that are treated as
6 related under either Section 267, 318, or 707 of the Internal
7 Revenue Code shall be treated as employed by a single taxpayer.

8 (2) In determining whether the taxpayer has first commenced
9 doing business in this state during the taxable year, the provisions
10 of subdivision—(f) (g) of Section—17276 24416.20, without
11 application of paragraph (7) of that subdivision, shall apply.

12 (e) (1) The aggregate amount of credits that may be allowed
13 for any—calendar taxable year under this section and Section
14 17053.81 shall not exceed an amount equal to thirty-five million
15 dollars (\$35,000,000).

16 (2) The credits allowed under this section and Section 17053.81
17 shall be allowed to a taxpayer on a first-come-first-served basis.

18 (3) The taxpayer shall claim the credit on a timely filed original
19 return.

20 (4) The date a return is received shall be determined by the
21 Franchise Tax Board.

22 (5) (A) The determinations of the Franchise Tax Board with
23 respect to the date a return is received and whether a return has
24 been timely filed for purposes of this subdivision may not be
25 reviewed in any administrative or judicial proceeding.

26 (B) Any disallowance of a credit claimed due to a determination
27 under this subdivision, including the application of the limitation
28 specified in paragraph (1), shall be treated as a mathematical error
29 appearing on the return. Any amount of tax resulting from such
30 disallowance may be assessed by the Franchise Tax Board in the
31 same manner as provided by Section 19051.

32 (6) The Franchise Tax Board shall periodically provide notice
33 on its Web site with respect to the amount of credit under this
34 section and Section 17053.81 claimed on timely filed original
35 returns received by the Franchise Tax Board.

36 ~~(f) In the case where the credit allowed by this section exceeds~~
37 ~~the “tax,” the excess may be carried over to reduce the “tax” in~~
38 ~~the following year, and succeeding years if necessary, until the~~
39 ~~credit is exhausted.~~

40 (g)

1 (f) (1) The Franchise Tax Board may prescribe rules, guidelines,
2 or procedures necessary or appropriate to carry out the purposes
3 of this section, *including any guidelines necessary to avoid the*
4 *application of subparagraph (B) of paragraph (2) of subdivision*
5 *(a) through split-ups, shell corporations, partnerships, tiered*
6 *ownership structures, or otherwise.*

7 (2) Chapter 3.5 (commencing with Section 11340) of Part 1 of
8 Division 3 of Title 2 of the Government Code does not apply to
9 any standard, criterion, procedure, determination, rule, notice, or
10 guideline established or issued by the Franchise Tax Board
11 pursuant to this section.

12 SEC. 4. This act provides for a tax levy within the meaning
13 of Article IV of the Constitution and shall go into immediate effect.

O