

SENATE BILL

No. 11

Introduced by Senator Dutton

February 24, 2010

An act to add Sections 17053.76 and 23622.9 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 11, as introduced, Dutton. Taxes: credits: qualified employees.

The Personal Income Tax Law and the Corporation Tax Law authorize various credits against the taxes imposed by those laws, including a hiring credit for qualified taxpayers who hire qualified employees, as defined, within enterprise zones, Manufacturing Enhancement Areas, targeted tax areas, and LAMBRAS, subject to specified criteria.

This bill would, for taxable years beginning on or after January 1, 2010, authorize a hiring credit for qualified taxpayers who hire qualified employees, as defined.

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. Section 17053.76 is added to the Revenue and
- 2 Taxation Code, to read:
- 3 17053.76. (a) For each taxable year beginning on or after
- 4 January 1, 2010, there shall be allowed a credit against the “net
- 5 tax,” as defined in Section 17039, an amount equal to the sum of

1 the following percentages of wages paid or incurred by the taxpayer
2 during the taxable year to each qualified employee of the taxpayer:

3 (1) Twenty-five percent for each qualified employee employed
4 by the qualified taxpayer for at least 120 hours, but less than 400
5 hours, during the taxable year.

6 (2) Forty percent for each qualified employee employed by the
7 qualified taxpayer for at least 400 hours during the taxable year.

8 (b) The credit under subdivision (a) shall be allowed only with
9 respect to the first six thousand dollars (\$6,000) of wages paid or
10 incurred during the taxable year to each qualified employee.

11 (c) For purposes of this section, all of the following definitions
12 apply:

13 (1) "Qualified employee" means an individual who is any of
14 the following, as documented by the Employment Development
15 Department:

16 (A) A recipient of CalWORKs benefits.

17 (B) A parolee.

18 (C) A veteran, as defined in Section 980 of the Military and
19 Veterans Code.

20 (D) Eligible for receipt of unemployment insurance benefits or
21 currently receiving unemployment insurance benefits.

22 (E) A person on probation.

23 (2) "Qualified taxpayer" means a taxpayer that is a person or
24 entity engaged in a trade or business within California that has its
25 principal office located in California.

26 (d) For purposes of this section the qualified taxpayer shall do
27 both of the following:

28 (1) Obtain a certificate from the Employment Development
29 Department certifying that a qualified employee is employed by
30 the qualified taxpayer.

31 (2) Retain a copy of the certification and provide it upon request
32 to the Franchise Tax Board.

33 (e) (1) For purposes of this section:

34 (A) All employees of trades or businesses, which are not
35 incorporated, that are under common control shall be treated as
36 employed by a single qualified taxpayer.

37 (B) The credit, if any, allowable by this section with respect to
38 each trade or business shall be determined by reference to its
39 proportionate share of the expense of the qualified wages giving
40 rise to the credit, and shall be allocated in that manner.

(C) Principles that apply in the case of controlled groups of corporations, as specified in subdivision (e) of Section 23622.9, shall apply with respect to determining employment.

(2) If an employer acquires the major portion of a trade or business of another employer (hereafter in this paragraph referred to as the “predecessor”) or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section, other than subdivision (f), for any calendar year ending after that acquisition, the employment relationship between a qualified employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(f) Any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the qualified taxpayer upon which the credit is based shall be reduced by the amount of the credit, prior to any reduction required by subdivision (g).

(g) In the case where the credit otherwise allowed under this section exceeds the “net tax” for the taxable year, that portion of the credit that exceeds the “net tax” may be carried over and added to the credit, if any, in succeeding taxable years, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

SEC. 2. Section 23622.9 is added to the Revenue and Taxation Code, to read:

23622.9. (a) For each taxable year beginning on or after January 1, 2010, there shall be allowed a credit against the “tax,” as defined in Section 23036, an amount equal to the sum of the following percentages of wages paid or incurred by the taxpayer during the taxable year to each qualified employee of the taxpayer.

(1) Twenty-five percent for each qualified employee employed by the qualified taxpayer for at least 120 hours, but not less than 400 hours, during the taxable year.

(2) Forty percent for each qualified employee employed by the qualified taxpayer for at least 400 hours during the taxable year.

(b) The credit under subdivision (a) shall be allowed only with respect to the first six thousand dollars (\$6,000) of wages paid or incurred during the taxable year to each qualified employee.

(c) For purposes of this section, all of the following definitions apply:

1 (1) “Qualified employee” means an individual who is any of
2 the following, as documented by the Employment Development
3 Department:

4 (A) A recipient of CalWORKs benefits.

5 (B) A parolee.

6 (C) A veteran, as defined in Section 980 of the Military and
7 Veterans Code.

8 (D) Eligible for receipt of unemployment insurance benefits or
9 currently receiving unemployment insurance benefits.

10 (E) A person on probation.

11 (2) “Qualified taxpayer” means a taxpayer that is a person or
12 entity engaged in a trade or business within California that has its
13 principal office located in California.

14 (d) For purposes of this section the qualified taxpayer shall do
15 both of the following:

16 (1) Obtain a certificate from the Employment Development
17 Department certifying that a qualified employee is employed by
18 the qualified taxpayer.

19 (2) Retain a copy of the certification and provide it upon request
20 to the Franchise Tax Board.

21 (e) (1) For purposes of this section:

22 (A) All employees of trades or businesses, which are not
23 incorporated, that are under common control shall be treated as
24 employed by a single qualified taxpayer.

25 (B) The credit, if any, allowable by this section with respect to
26 each trade or business shall be determined by reference to its
27 proportionate share of the expense of the qualified wages giving
28 rise to the credit, and shall be allocated in that manner.

29 (C) Principles that apply in the case of controlled groups of
30 corporations shall apply with respect to determining employment.

31 (2) If an employer acquires the major portion of a trade or
32 business of another employer (hereafter in this paragraph referred
33 to as the “predecessor”) or the major portion of a separate unit of
34 a trade or business of a predecessor, then, for purposes of applying
35 this section, other than subdivision (f), for any calendar year ending
36 after that acquisition, the employment relationship between a
37 qualified employee and an employer shall not be treated as
38 terminated if the employee continues to be employed in that trade
39 or business.

1 (f) Any deduction otherwise allowed under this part for the
2 wages or salaries paid or incurred by the qualified taxpayer upon
3 which the credit is based shall be reduced by the amount of the
4 credit, prior to any reduction required by subdivision (g).

5 (g) In the case where the credit otherwise allowed under this
6 section exceeds the “tax” for the taxable year, that portion of the
7 credit that exceeds the “tax” may be carried over and added to the
8 credit, if any, in succeeding taxable years, until the credit is
9 exhausted. The credit shall be applied first to the earliest taxable
10 years possible.

11 SEC. 3. This act provides for a tax levy within the meaning of
12 Article IV of the Constitution and shall go into immediate effect.

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