

AMENDED IN ASSEMBLY JUNE 15, 2010

AMENDED IN SENATE MAY 19, 2010

AMENDED IN SENATE MAY 3, 2010

AMENDED IN SENATE APRIL 5, 2010

SENATE BILL

No. 974

**Introduced by Senator Steinberg
(Coauthors: Senators *Alquist*, *Hancock*, and *Romero*)**

February 8, 2010

An act to add Part 38 (commencing with Section 64200) to Division 4 of Title 2 of the Education Code, and to amend Sections 17053.74 and 23622.7 of, and to add Sections 17057.6 and 23610.6 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 974, as amended, Steinberg. Income and corporations tax: hiring and career credits.

(1) The Personal Income Tax Law and The Corporation Tax Law authorize various credits against the taxes imposed by those laws.

This bill, in accordance with legislative findings contained in this bill and for calendar years beginning on or after January 1, 2011, would, for a business entity, as described, that provides career technical education, authorize a credit against those taxes, subject to specified limitations, in an amount equal to that *reserved and* allocated by the ~~State Department of Education~~ *Superintendent of Public Instruction*.

This bill would impose specified duties on the ~~State Department of Education~~ *Superintendent of Public Instruction*, the Franchise Tax Board, and the State Board of Equalization; in administering the credits.

(2) 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, subject to specific criteria. Qualified employees includes, for purposes of the credit, an ex-offender, as defined. Existing law requires a taxpayer to obtain, from specified agencies, a certification providing that a qualified employee meets the requirements of the credit.

This bill would, for taxable years beginning on or after January 1, 2011, revise the definition of “qualified employee” for this purpose, by providing that an ex-offender includes an individual who has been convicted of a felony or a misdemeanor offense punishable by incarceration, or a person charged with a felony or misdemeanor punishable by incarceration but placed on probation without a finding of guilt, with specified exclusions. This bill would also, for taxable years beginning on or after January 1, 2011, revise the definition of “qualified employee” by removing, as an element of eligibility as a qualified employee, residency in a targeted employment or targeted tax area. Additionally, this bill would require taxpayers to apply for, and obtain, the certification of a qualified employee within 42 days of the date of hire of the qualified employee. This bill would also make technical, nonsubstantive changes to remove obsolete references in the credit provisions.

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. Part 38 (commencing with Section 64200) is
2 added to Division 4 of Title 2 of the Education Code, to read:
3
4 PART 38. CAREER PATHWAYS INVESTMENT CREDIT
5
6 64200. (a) The Legislature finds and declares the following:
7 (1) The deep economic recession that has gripped California
8 requires a timely response and strategic investments to educate
9 and prepare the workforce that will help fuel the next stage of the
10 state’s economic growth.

1 (2) The swift recovery of the California economy faces an
2 obstacle in the high numbers of young people dropping out of the
3 state's middle and high schools. Longitudinal data show that fewer
4 than 70 percent of 9th graders in California graduate from high
5 school in four years. According to the ~~State Department of~~
6 ~~Education~~ *Superintendent of Public Instruction*, some 85,000
7 middle and high school pupils are abandoning secondary schools
8 annually.

9 (3) If the dropout crisis is left unchecked, demographic trends
10 suggest that the rate of future dropouts will increase. The Public
11 Policy Institute of California predicts there will be twice as many
12 high school dropouts in California in 2025 as there will be jobs to
13 support them.

14 (4) According to a 2007 study by the California Dropout
15 Research Project, each cohort of dropouts costs California more
16 than \$46 billion in total economic losses over the lifetimes of those
17 dropouts.

18 (5) The fastest growing occupations in the coming years are
19 expected to be those that require scientific, technical, engineering,
20 or math (STEM) skills, such as jobs in biotechnology, digital media
21 arts, green technology, or computer-related and health-related
22 fields.

23 (6) A 2006 poll of at-risk California 9th and 10th graders by
24 Peter D. Hart Research Associates found that 6 in 10 pupils were
25 not motivated to succeed in school. Of those pupils, more than 90
26 percent said they would be more engaged in their education if
27 classes helped them acquire skills and knowledge relevant to future
28 careers.

29 (7) Comprehensive programs that link challenging academics
30 with demanding career and technical education create engaging
31 pathways to further education, advanced training, and productive
32 jobs in high opportunity careers. They keep students on track to a
33 diploma, postsecondary credentials, and lasting career success.

34 (8) New research from the Public Policy Institute of California
35 suggests that the state's enterprise zone tax credit program has not
36 significantly increased job creation or the employment of
37 hard-to-hire individuals, as was intended.

38 (9) Two aspects of the enterprise zone program that have
39 produced an especially poor return on investment, Targeted
40 Employment Areas (TEA) and retroactive vouchering, should be

1 phased out in favor of fiscal incentives that enhance workforce
2 development for the jobs of the future and that have a beneficial
3 impact on high school graduation rates.

4 (b) It is the intent of the Legislature to do the following:

5 (1) Evaluate the state’s tax expenditure investments as rigorously
6 as it evaluates the state’s spending programs.

7 (2) Establish fiscal incentives, such as tax credits, that encourage
8 California businesses and industry to enter into partnerships with
9 schools that strengthen middle and high school education statewide.

10 These partnerships will connect pupils and teachers to real-world
11 experience that provides sustained exposure to applied academics,
12 skill development, work-related education, and potential future
13 employers. This experience will keep students engaged and on
14 track to graduation, further education, and productive careers.

15 (c) As used in this section, “tax expenditure” means a credit,
16 deduction, exclusion, exemption, or any other tax benefit as may
17 be provided for by state law.

18 64201. For purposes of this part:

19 (a) “Applicant” means a business entity that enters into a
20 contract or memorandum of understanding with a local educational
21 agency to provide career technical education that connects pupils
22 to real-world experience and provides sustained exposure to applied
23 academics, skill development, work-related education, and potential
24 future employment, *and that applies to the Superintendent of Public*
25 *Instruction for the Career Pathways Investment Credit.*

26 (b) “Authentic application” means an activity in the context of
27 a middle or high school course that requires pupils to work actively
28 with academic and technical concepts, facts, and skills in a realistic,
29 work-like setting that emulates the problems encountered by
30 professionals and the practices they use to address them. These
31 applications typically require pupils to examine a task from a
32 variety of perspectives, to draw upon multiple resources, to
33 collaborate with others, and to accomplish tasks and projects by
34 working in teams rather than individually.

35 (c) “Budget” means an estimate of all qualified expenditures
36 to be paid or incurred in providing the career pathways program
37 over the period for which the applicant is applying for the career
38 pathways investment credit.

39 (e)

1 (d) “Career pathways investment credit ceiling” means the
2 aggregate amount of credit that may be annually allocated by the
3 department pursuant to Sections 17057.6 and 23610.6 of the
4 Revenue and Taxation Code.

5 ~~(d) “Department” means the State Department of Education.~~

6 (e) “Middle school or high school programs that create career
7 pathways” means programs that support the following:

8 (1) High school pathways programs delivered through high
9 schools, regional occupation centers or programs, California
10 Partnership Academies and other career academies, alternative
11 education programs, including continuation schools and programs
12 administered by county offices of education, or adult education
13 programs, that integrate academic and technical learning to prepare
14 pupils for both postsecondary education and careers in high-growth
15 or high-need sectors of the economy. These programs include core
16 academic courses emphasizing authentic applications, sequences
17 or clusters of three or more courses that align with the State Board
18 of Education approved career technical education standards and
19 frameworks that also integrate key academic concepts and skills,
20 work-based learning opportunities, additional services like
21 counseling or supplementary instruction in reading, writing, and
22 mathematics. These programs shall also:

23 (A) Focus on occupations requiring comprehensive skills in
24 leading to high entry-level wages or the possibility of significant
25 wage increases after a demonstrated amount of time at the position.

26 (B) Provide prerequisite courses that are needed to enter
27 apprenticeships, or postsecondary vocation certificate or degree
28 programs. Where possible, sequenced courses shall be articulated
29 with, or linked to, postsecondary certificate and degree programs
30 in the region.

31 (C) Offer as many courses as possible that have been approved
32 by the University of California as courses meeting the “A-G”
33 admissions requirements.

34 (2) Curriculum and professional development.

35 (3) Middle school career exploration activities.

36 (4) Externship opportunities that expose middle school and high
37 school teachers to the skills and competencies that pupils need for
38 successful employment in high-growth sectors of the California
39 economy.

1 (5) Active engagement by business and industry in pathway
 2 design and implementation, work-based learning, assessment of
 3 student work, and other aspects of effective preparation for success
 4 in further postsecondary education and careers.

5 (f) *“Qualified expenditures” includes the following:*

6 (1) *Equipment and instructional materials.*

7 (2) *Employees to provide instruction, in partnership with*
 8 *credentialed teachers employed by the school district, at the*
 9 *schoolsite.*

10 (3) *Paid jobs or internships.*

11 (4) *Teacher externships.*

12 (5) *Contributions to programs administered by postsecondary*
 13 *institutions that provide support to middle or high school programs*
 14 *that create career pathways. This support may include, but shall*
 15 *not be limited to, teacher training, curriculum development, and*
 16 *other forms of technical assistance.*

17 (g) *“Superintendent” means the Superintendent of Public*
 18 *Instruction.*

19 64202. For calendar years beginning on or after January 1,
 20 2011, the ~~department Superintendent shall determine reserve and~~
 21 ~~allocate the career pathways investment credit ceiling. The~~
 22 ~~department may reserve a portion of anticipated career pathways~~
 23 ~~investment credit ceiling for subsequent calendar years. For~~
 24 ~~purposes of this section, the department Superintendent shall do~~
 25 ~~all of the following:~~

26 (a) Allocate the career pathways investment credit ceiling on a
 27 regular basis consisting of two or more periods in a calendar year
 28 in which applications may be filed and considered. *The*
 29 *Superintendent may reserve credits for up to 5 calendar years for*
 30 *each application he or she approves. The amount of credit reserved*
 31 *in any calendar year shall be applied against the career pathways*
 32 *program. The amount of career pathway credit reserved in each*
 33 *calendar year shall equal the amounts specified in subdivision (d)*
 34 *of Section 17057.6 of the Revenue and Taxation Code, as added*
 35 *by this act.*

36 (b) (1) Establish a procedure for applicants to file with the
 37 ~~department Superintendent a written application for the allocation~~
 38 ~~reservation of the tax credit, credit and establish application filing~~
 39 ~~deadlines, the maximum amount of career pathways investment~~

1 ~~credit ceiling that the department may allocate for that period, and~~
2 ~~the approximate date on which the allocations are made. *deadlines.*~~

3 (2) ~~The department~~ *Superintendent* may contract with other
4 entities to aid in the processing and review of applications.

5 (c) (1) Give priority in allocating tax credits to the following:

6 (A) Applicants that have entered into a contract or memorandum
7 of understanding with local educational agencies in communities
8 that have an unemployment rate higher than the statewide
9 unemployment rate, as determined by the United States Census,
10 and a high school graduation rate lower than the statewide high
11 school graduation rate, as determined by the ~~department~~
12 *Superintendent* using the California Longitudinal Pupil
13 Achievement Data System.

14 (B) Applicants that have entered into a contract or memorandum
15 of understanding with local educational agencies with proportions
16 of private funding support that exceed the one-to-one match
17 requirement described in paragraph (1) of subdivision (e).

18 (C) Applicants that have entered into a contract or memorandum
19 of understanding with local educational agencies that are articulated
20 with postsecondary certificate and degree programs in their region.

21 (D) *Applicants that are not seeking tax credits for existing*
22 *activities. However, priority shall be given to applicants that seek*
23 *to expand or augment existing investments in career pathway*
24 *programs.*

25 (2) To the maximum extent practicable, subject to paragraph
26 (1), give priority in allocating career pathways investment credits
27 to applicants serving socioeconomically diverse student populations
28 and on a geographically equitable basis.

29 (3) ~~The department~~ *Superintendent* shall not give priority to any
30 applicant by virtue of the date of submission of its application,
31 except to allocate credits where two or more applicants have the
32 same rating.

33 (d) ~~Only allocate~~ *reserve* the career pathways investment credit
34 ceiling to an applicant that agrees to enter into an enforceable
35 contract or memorandum of understanding with the department to
36 comply with the requirements of this part, Sections 17057.6 and
37 23610.6 of the Revenue and Taxation Code, any applicable state
38 laws, and any additional requirements the department deems
39 necessary or appropriate to serve the purposes of this part. The
40 contract or memorandum of understanding shall also provide for

1 legal action to obtain specified performance or monetary damages
2 for breach of contract and shall require regular programmatic
3 audits.

4 (e) Adopt ~~allocation~~ *reserve* criteria that awards credits to
5 applicants that demonstrate that either the applicant or the local
6 educational agency meets the following criteria:

7 ~~(1) At least a one-to-one match of private to public investment~~
8 ~~in middle school and high school programs that create career~~
9 ~~pathways or similar programs.~~

10 ~~(2)~~
11 (1) The effectiveness of the career pathway program toward
12 preparing students for productive, high-wage employment in
13 growing or high-need sectors of the California economy.
14 Effectiveness criteria shall include:

- 15 (A) Pathway completion rates.
- 16 (B) High school graduation rates.
- 17 (C) Percentages of students attaining an industry certification.
- 18 (D) Percentages of students transitioning successfully to
19 postsecondary education.
- 20 (E) Employment and earnings after high school.

21 ~~(3)~~
22 (2) The level of the applicant’s investment in, oversight of, and
23 ability to leverage and sustain current career pathways programs
24 and current career technical education programs.

25 (f) Develop and provide forms for the purposes of informing
26 potential applicants of the purposes of this part.

27 (g) (1) Certify to each applicant the amount of the career
28 pathways credit ceiling ~~allocated~~ *reserved* to it for the calendar
29 year. *The amount of the credit reserved for a calendar year shall*
30 *not exceed 50 percent of the qualified expenditures estimated by*
31 *the applicant for the calendar year. The department may allocate*
32 *the career pathways tax credit to the applicant after it audits and*
33 *verifies that the amount of qualified expenditures the applicant*
34 *actually incurs in the performance of the career pathways program*
35 *is accurate.* The certificate shall include the amount of the credit
36 allocation that may be distributed and applied by the applicant
37 against tax liability.

38 (2) ~~The department~~ *Superintendent* shall provide a copy of the
39 certification to the applicant.

1 (3) *The Superintendent shall report to the Franchise Tax Board,*
2 *once each year, the identity of the qualified taxpayers for whom*
3 *the career pathways credits are reserved or allocated each year.*

4 (h) ~~The department Superintendent~~ may, ~~in its~~ *his or her*
5 *discretion, consult with the Treasurer and the California Tax Credit*
6 *Allocation Committee regarding the allocation of tax credits. If a*
7 *request for consultation is made, the Treasurer and the California*
8 *Tax Credit Allocation Committee shall aid the department*
9 *Superintendent.*

10 (i) Establish audit requirements. ~~The department Superintendent~~
11 *may share information established during an audit with the*
12 *Franchise Tax Board.*

13 64203. For calendar years beginning on or after January 1,
14 2011, ~~the department Superintendent~~ shall develop and provide
15 forms for use by applicants and adopt uniform procedures for
16 submission and review of applications. The application shall
17 include, but not be limited to, the following:

18 (a) A copy of the contract or memorandum of understanding
19 between the applicant and the local educational agency that
20 includes, but is not limited to, the following:

21 (1) A clear and comprehensive plan for each middle school or
22 high school program that creates career pathways.

23 ~~(2) A description of the nature and value of the applicant's~~
24 ~~support for career exploration activities, curriculum and~~
25 ~~professional development programs, and middle school or high~~
26 ~~school programs that create career pathways that integrate academic~~
27 ~~and technical learning to prepare pupils for both college and~~
28 ~~careers. The support may include any of the following:~~

29 ~~(A) Equipment or instructional materials.~~

30 ~~(B) Employees to provide instruction, in partnership with~~
31 ~~credentialed teachers employed by the school district, at the~~
32 ~~schoolsite.~~

33 ~~(C) Opportunities for pupils to be mentored by, or to shadow,~~
34 ~~employees at a partnering private entity.~~

35 ~~(D) Paid or unpaid internships.~~

36 ~~(E) Paid jobs.~~

37 ~~(F) Teacher externships.~~

38 ~~(G) Contributions to programs administered by postsecondary~~
39 ~~institutions that provide support to middle or high school programs~~
40 ~~that create career pathways. This support may include, but shall~~

1 not be limited to, teacher training, curriculum development, and
2 other forms of technical assistance.

3 (2) *The budget for the career pathways investment program*
4 *over the period for which the applicant is applying for the career*
5 *pathways investment credit.*

6 (b) Details about the strength and relevance of the education
7 plan to the needs of industry for qualified technical employees
8 applicable to the economic development needs of the region in
9 which the local education agency and partnering private entity are
10 located.

11 (c) Projections of program participant enrollment.

12 (d) The method by which accountability for program participant
13 enrollments and outcomes will be maintained. Outcomes shall
14 include the criteria listed in paragraph (2) of subdivision (e) of
15 Section 64202.

16 (e) Any other information deemed relevant by the ~~department~~
17 *Superintendent*.

18 64204. (a) ~~The department~~ *Superintendent* may charge a fee
19 for the submission of applications for allocations of the current
20 calendar year's career pathways investment credit ceiling,
21 reservation of the following year's career pathways investment
22 credit ceiling, and for monitoring the compliance of applicants
23 receiving a credit under this part. If the ~~department~~ *Superintendent*
24 chooses to impose a fee, it shall establish and charge fees in an
25 amount which it determines are reasonably sufficient to cover the
26 costs of the department, the State Board of Equalization, and the
27 Franchise Tax Board in carrying out the administrative
28 responsibilities required by this part.

29 (b) Fees collected pursuant to this subdivision shall be deposited
30 in the Career Pathways Investment Credit Fee Account, which is
31 hereby created in the State Treasury, and shall be available, upon
32 appropriation by the Legislature to cover the administrative costs
33 of the ~~department~~ *Superintendent*, the State Board of Equalization,
34 and the Franchise Tax Board in administering this part.

35 (c) Until the time sufficient fee revenue is received by the
36 department to fully cover the administrative costs of administering
37 this part, the ~~department~~ *Superintendent* may borrow moneys as
38 may be required for the purposes of meeting necessary
39 administrative expenses of the ~~department~~ *Superintendent* in
40 administering this part. Any loan made to the ~~department~~

1 *Superintendent* pursuant to this section shall be repayable solely
2 from the moneys appropriated to the ~~department~~ *Superintendent*
3 and shall not constitute a general obligation for which the faith
4 and credit of the state are pledged.

5 64205. The ~~department~~ *Superintendent* may prescribe rules
6 and regulations to carry out the purposes of this part, including
7 any rules and regulations necessary to establish procedures,
8 processes, requirements, and rules identified or required to
9 implement this part, including any rules and regulations necessary
10 to establish a fee schedule necessary to offset the costs of
11 administering this part.

12 SEC. 2. Section 17053.74 of the Revenue and Taxation Code
13 is amended to read:

14 17053.74. (a) There shall be allowed a credit against the “net
15 tax” (as defined in Section 17039) to a taxpayer who employs a
16 qualified employee in an enterprise zone during the taxable year.
17 The credit shall be equal to the sum of each of the following:

18 (1) Fifty percent of qualified wages in the first year of
19 employment.

20 (2) Forty percent of qualified wages in the second year of
21 employment.

22 (3) Thirty percent of qualified wages in the third year of
23 employment.

24 (4) Twenty percent of qualified wages in the fourth year of
25 employment.

26 (5) Ten percent of qualified wages in the fifth year of
27 employment.

28 (b) For purposes of this section:

29 (1) “Qualified wages” means:

30 (A) (i) Except as provided in clause (ii), that portion of wages
31 paid or incurred by the taxpayer during the taxable year to qualified
32 employees that does not exceed 150 percent of the minimum wage.

33 (ii) For up to 1,350 qualified employees who are employed by
34 the taxpayer in the Long Beach Enterprise Zone in aircraft
35 manufacturing activities described in Codes 3721 to 3728,
36 inclusive, and Code 3812 of the Standard Industrial Classification
37 (SIC) Manual published by the United States Office of
38 Management and Budget, 1987 edition, “qualified wages” means
39 that portion of hourly wages that does not exceed 202 percent of
40 the minimum wage.

1 (B) Wages received during the 60-month period beginning with
2 the first day the employee commences employment with the
3 taxpayer. Reemployment in connection with any increase, including
4 a regularly occurring seasonal increase, in the trade or business
5 operations of the taxpayer does not constitute commencement of
6 employment for purposes of this section.

7 (C) Qualified wages do not include any wages paid or incurred
8 by the taxpayer on or after the zone expiration date. However,
9 wages paid or incurred with respect to qualified employees who
10 are employed by the taxpayer within the enterprise zone within
11 the 60-month period prior to the zone expiration date shall continue
12 to qualify for the credit under this section after the zone expiration
13 date, in accordance with all provisions of this section applied as
14 if the enterprise zone designation were still in existence and
15 binding.

16 (2) “Minimum wage” means the wage established by the
17 Industrial Welfare Commission as provided for in Chapter 1
18 (commencing with Section 1171) of Part 4 of Division 2 of the
19 Labor Code.

20 (3) “Zone expiration date” means the date the enterprise zone
21 designation expires, is no longer binding, or becomes inoperative.

22 (4) (A) “Qualified employee” means an individual who meets
23 all of the following requirements:

24 (i) At least 90 percent of whose services for the taxpayer during
25 the taxable year are directly related to the conduct of the taxpayer’s
26 trade or business located in an enterprise zone.

27 (ii) Performs at least 50 percent of his or her services for the
28 taxpayer during the taxable year in an enterprise zone.

29 (iii) Is hired by the taxpayer after the date of original designation
30 of the area in which services were performed as an enterprise zone.

31 (iv) Is any of the following:

32 (I) Immediately preceding the qualified employee’s
33 commencement of employment with the taxpayer, was a person
34 eligible for services under the federal Job Training Partnership
35 Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving,
36 or is eligible to receive, subsidized employment, training, or
37 services funded by the federal Job Training Partnership Act, or its
38 successor.

39 (II) Immediately preceding the qualified employee’s
40 commencement of employment with the taxpayer, was a person

1 eligible to be a voluntary or mandatory registrant under the Greater
2 Avenues for Independence Act of 1985 (GAIN) provided for
3 pursuant to Article 3.2 (commencing with Section 11320) of
4 Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions
5 Code, or its successor.

6 (III) Immediately preceding the qualified employee's
7 commencement of employment with the taxpayer, was an
8 economically disadvantaged individual 14 years of age or older.

9 (IV) Immediately preceding the qualified employee's
10 commencement of employment with the taxpayer, was a dislocated
11 worker who meets any of the following:

12 (ia) Has been terminated or laid off or who has received a notice
13 of termination or layoff from employment, is eligible for or has
14 exhausted entitlement to unemployment insurance benefits, and
15 is unlikely to return to his or her previous industry or occupation.

16 (ib) Has been terminated or has received a notice of termination
17 of employment as a result of any permanent closure or any
18 substantial layoff at a plant, facility, or enterprise, including an
19 individual who has not received written notification but whose
20 employer has made a public announcement of the closure or layoff.

21 (ic) Is long-term unemployed and has limited opportunities for
22 employment or reemployment in the same or a similar occupation
23 in the area in which the individual resides, including an individual
24 55 years of age or older who may have substantial barriers to
25 employment by reason of age.

26 (id) Was self-employed (including farmers and ranchers) and
27 is unemployed as a result of general economic conditions in the
28 community in which he or she resides or because of natural
29 disasters.

30 (ie) Was a civilian employee of the Department of Defense
31 employed at a military installation being closed or realigned under
32 the Defense Base Closure and Realignment Act of 1990.

33 (if) Was an active member of the Armed Forces or National
34 Guard as of September 30, 1990, and was either involuntarily
35 separated or separated pursuant to a special benefits program.

36 (ig) Is a seasonal or migrant worker who experiences chronic
37 seasonal unemployment and underemployment in the agriculture
38 industry, aggravated by continual advancements in technology and
39 mechanization.

- 1 (ih) Has been terminated or laid off, or has received a notice of
2 termination or layoff, as a consequence of compliance with the
3 Clean Air Act.
- 4 (V) Immediately preceding the qualified employee's
5 commencement of employment with the taxpayer, was a disabled
6 individual who is eligible for or enrolled in, or has completed a
7 state rehabilitation plan or is a service-connected disabled veteran,
8 veteran of the Vietnam era, or veteran who is recently separated
9 from military service.
- 10 (VI) Immediately preceding the qualified employee's
11 commencement of employment with the taxpayer, was an
12 ex-offender. An ex-offender means an individual who has been
13 convicted of a felony or a misdemeanor offense punishable by
14 incarceration or a person charged with a felony offense or a
15 misdemeanor offense punishable by incarceration but placed on
16 probation by a state court without a finding of guilt. Ex-offender
17 shall not include an individual whose record has been expunged.
- 18 (VII) Immediately preceding the qualified employee's
19 commencement of employment with the taxpayer, was a person
20 eligible for or a recipient of any of the following:
 - 21 (ia) Federal Supplemental Security Income benefits.
 - 22 (ib) Temporary Assistance for Needy Families.
 - 23 (ic) Food stamps.
 - 24 (id) State and local general assistance.
- 25 (VIII) Immediately preceding the qualified employee's
26 commencement of employment with the taxpayer, was a member
27 of a federally recognized Indian tribe, band, or other group of
28 Native American descent.
- 29 (IX) An employee who qualified the taxpayer for the enterprise
30 zone hiring credit under former Section 17053.8 or the program
31 area hiring credit under former Section 17053.11.
- 32 (X) Immediately preceding the qualified employee's
33 commencement of employment with the taxpayer, was a member
34 of a targeted group, as defined in Section 51(d) of the Internal
35 Revenue Code, or its successor.
- 36 (B) Priority for employment shall be provided to an individual
37 who is enrolled in a qualified program under the federal Workforce
38 Investment Act or the California Work Opportunity and
39 Responsibility to Kids Act (CalWORKs) or who is eligible as a

1 member of a targeted group under the Work Opportunity Tax
2 Credit (Section 51 of the Internal Revenue Code), or its successor.

3 (5) “Taxpayer” means a person or entity engaged in a trade or
4 business within an enterprise zone designated pursuant to Chapter
5 12.8 (commencing with Section 7070) of the Government Code.

6 (6) “Seasonal employment” means employment by a taxpayer
7 that has regular and predictable substantial reductions in trade or
8 business operations.

9 (c) The taxpayer shall do both of the following:

10 (1) (A) Obtain, within 42 days from the commencement date
11 of employment, from the Employment Development Department,
12 as permitted by federal law, the local county or city Workforce
13 Investment Act administrative entity, the local county CalWORKs
14 office or social services agency, or the local government
15 administering the enterprise zone, a certification which provides
16 that a qualified employee meets the eligibility requirements
17 specified in clause (iv) of subparagraph (A) of paragraph (4) of
18 subdivision (b). The Employment Development Department may
19 provide preliminary screening and referral to a certifying agency.
20 The Employment Development Department shall develop a form
21 for this purpose. The Department of Housing and Community
22 Development shall develop regulations governing the issuance of
23 certificates by local governments pursuant to subdivision (a) of
24 Section 7086 of the Government Code.

25 (B) Applications for certification shall be submitted to the
26 certifying agency within 28 days of the commencement date of
27 employment for the employee. The certifying agency shall not
28 provide a certification for any employee whose employment
29 commenced more than 28 days before the taxpayer requests a
30 certification.

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

33 (d) (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 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.

1 (C) Principles that apply in the case of controlled groups of
2 corporations, as specified in subdivision (d) of Section 23622.7,
3 shall apply with respect to determining employment.

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

13 (e) (1) (A) If the employment, other than seasonal employment,
14 of any qualified employee, with respect to whom qualified wages
15 are taken into account under subdivision (a) is terminated by the
16 taxpayer at any time during the first 270 days of that employment
17 (whether or not consecutive) or before the close of the 270th
18 calendar day after the day in which that employee completes 90
19 days of employment with the taxpayer, the tax imposed by this
20 part for the taxable year in which that employment is terminated
21 shall be increased by an amount equal to the credit allowed under
22 subdivision (a) for that taxable year and all prior taxable years
23 attributable to qualified wages paid or incurred with respect to that
24 employee.

25 (B) If the seasonal employment of any qualified employee, with
26 respect to whom qualified wages are taken into account under
27 subdivision (a) is not continued by the taxpayer for a period of
28 270 days of employment during the 60-month period beginning
29 with the day the qualified employee commences seasonal
30 employment with the taxpayer, the tax imposed by this part, for
31 the taxable year that includes the 60th month following the month
32 in which the qualified employee commences seasonal employment
33 with the taxpayer, shall be increased by an amount equal to the
34 credit allowed under subdivision (a) for that taxable year and all
35 prior taxable years attributable to qualified wages paid or incurred
36 with respect to that qualified employee.

37 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
38 any of the following:

39 (i) A termination of employment of a qualified employee who
40 voluntarily leaves the employment of the taxpayer.

1 (ii) A termination of employment of a qualified employee who,
2 before the close of the period referred to in paragraph (1), becomes
3 disabled and unable to perform the services of that employment,
4 unless that disability is removed before the close of that period
5 and the taxpayer fails to offer reemployment to that employee.

6 (iii) A termination of employment of a qualified employee, if
7 it is determined that the termination was due to the misconduct (as
8 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
9 the California Code of Regulations) of that employee.

10 (iv) A termination of employment of a qualified employee due
11 to a substantial reduction in the trade or business operations of the
12 taxpayer.

13 (v) A termination of employment of a qualified employee, if
14 that employee is replaced by other qualified employees so as to
15 create a net increase in both the number of employees and the
16 hours of employment.

17 (B) Subparagraph (B) of paragraph (1) shall not apply to any
18 of the following:

19 (i) A failure to continue the seasonal employment of a qualified
20 employee who voluntarily fails to return to the seasonal
21 employment of the taxpayer.

22 (ii) A failure to continue the seasonal employment of a qualified
23 employee who, before the close of the period referred to in
24 subparagraph (B) of paragraph (1), becomes disabled and unable
25 to perform the services of that seasonal employment, unless that
26 disability is removed before the close of that period and the
27 taxpayer fails to offer seasonal employment to that qualified
28 employee.

29 (iii) A failure to continue the seasonal employment of a qualified
30 employee, if it is determined that the failure to continue the
31 seasonal employment was due to the misconduct (as defined in
32 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California
33 Code of Regulations) of that qualified employee.

34 (iv) A failure to continue seasonal employment of a qualified
35 employee due to a substantial reduction in the regular seasonal
36 trade or business operations of the taxpayer.

37 (v) A failure to continue the seasonal employment of a qualified
38 employee, if that qualified employee is replaced by other qualified
39 employees so as to create a net increase in both the number of
40 seasonal employees and the hours of seasonal employment.

1 (C) For purposes of paragraph (1), the employment relationship
2 between the taxpayer and a qualified employee shall not be treated
3 as terminated by reason of a mere change in the form of conducting
4 the trade or business of the taxpayer, if the qualified employee
5 continues to be employed in that trade or business and the taxpayer
6 retains a substantial interest in that trade or business.

7 (3) Any increase in tax under paragraph (1) shall not be treated
8 as tax imposed by this part for purposes of determining the amount
9 of any credit allowable under this part.

10 (f) In the case of an estate or trust, both of the following apply:

11 (1) The qualified wages for any taxable year shall be apportioned
12 between the estate or trust and the beneficiaries on the basis of the
13 income of the estate or trust allocable to each.

14 (2) Any beneficiary to whom any qualified wages have been
15 apportioned under paragraph (1) shall be treated, for purposes of
16 this part, as the employer with respect to those wages.

17 (g) For purposes of this section, “enterprise zone” means an
18 area designated as an enterprise zone pursuant to Chapter 12.8
19 (commencing with Section 7070) of Division 7 of Title 1 of the
20 Government Code.

21 (h) The credit allowable under this section shall be reduced by
22 the credit allowed under Sections 17053.10, 17053.17 and 17053.46
23 claimed for the same employee. The credit shall also be reduced
24 by the federal credit allowed under Section 51 of the Internal
25 Revenue Code.

26 In addition, any deduction otherwise allowed under this part for
27 the wages or salaries paid or incurred by the taxpayer upon which
28 the credit is based shall be reduced by the amount of the credit,
29 prior to any reduction required by subdivision (i) or (j).

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

36 (j) (1) The amount of the credit otherwise allowed under this
37 section and Section 17053.70, including any credit carryover from
38 prior years, that may reduce the “net tax” for the taxable year shall
39 not exceed the amount of tax which would be imposed on the
40 taxpayer’s business income attributable to the enterprise zone

1 determined as if that attributable income represented all of the
2 income of the taxpayer subject to tax under this part.

3 (2) Attributable income shall be that portion of the taxpayer's
4 California source business income that is apportioned to the
5 enterprise zone. For that purpose, the taxpayer's business income
6 attributable to sources in this state first shall be determined in
7 accordance with Chapter 17 (commencing with Section 25101) of
8 Part 11. That business income shall be further apportioned to the
9 enterprise zone in accordance with Article 2 (commencing with
10 Section 25120) of Chapter 17 of Part 11, modified for purposes
11 of this section in accordance with paragraph (3).

12 (3) Business income shall be apportioned to the enterprise zone
13 by multiplying the total California business income of the taxpayer
14 by a fraction, the numerator of which is the property factor plus
15 the payroll factor, and the denominator of which is two. For
16 purposes of this paragraph:

17 (A) The property factor is a fraction, the numerator of which is
18 the average value of the taxpayer's real and tangible personal
19 property owned or rented and used in the enterprise zone during
20 the taxable year, and the denominator of which is the average value
21 of all the taxpayer's real and tangible personal property owned or
22 rented and used in this state during the taxable year.

23 (B) The payroll factor is a fraction, the numerator of which is
24 the total amount paid by the taxpayer in the enterprise zone during
25 the taxable year for compensation, and the denominator of which
26 is the total compensation paid by the taxpayer in this state during
27 the taxable year.

28 (4) The portion of any credit remaining, if any, after application
29 of this subdivision, shall be carried over to succeeding taxable
30 years, as if it were an amount exceeding the "net tax" for the
31 taxable year, as provided in subdivision (i).

32 (k) The changes made to this section by the act adding this
33 subdivision shall apply to taxable years beginning on or after
34 January 1, 1997.

35 (l) The changes made to this section by the act adding this
36 subdivision shall apply to any qualified employee who commences
37 employment on or after January 1, 2011.

38 SEC. 3. Section 17057.6 is added to the Revenue and Taxation
39 Code, to read:

1 17057.6. (a) For taxable years beginning on or after January
2 1, 2011, there shall be allowed to a qualified taxpayer as a credit
3 against the “net tax,” as defined in Section 17039, an amount equal
4 to that allocated to a qualified taxpayer by the ~~State Department~~
5 ~~of Education~~ *Superintendent of Public Instruction* pursuant to
6 Section 64202 of the Education Code.

7 (b) For purposes of this section a “qualified taxpayer” means
8 an applicant, as defined in Section 64201 of the Education Code,
9 who is either the sole owner if an individual, partners if the
10 taxpayer is a partnership, or shareholders if the taxpayer is an “S”
11 corporation, *and who was awarded an allocation of the career*
12 *pathways investment credit by the Superintendent of Public*
13 *Instruction.*

14 (c) Upon the request of the Franchise Tax Board, the qualified
15 taxpayer shall provide a copy of the certification provided pursuant
16 to Section 64202 of the Education Code to the Franchise Tax
17 Board.

18 (d) The aggregate amount of credits that may be allocated in
19 any calendar year pursuant to this section and Section 23610.6
20 shall be an amount equal to the sum of the following:

21 (1) Seventy-eight million dollars (\$78,000,000) for the 2011
22 calendar year.

23 (2) (A) One hundred million dollars (\$100,000,000) for the
24 2012 calendar year, hereafter the baseline amount, and each
25 calendar year thereafter. For each subsequent calendar year, the
26 baseline amount shall be adjusted by the Franchise Tax Board to
27 reflect the rate of inflation or deflation from the previous date that
28 the baseline amount was established, as measured by the Consumer
29 Price Index or other method of measuring the rate of inflation or
30 deflation which the Franchise Tax Board determines is reliable
31 and generally accepted.

32 (B) The unused credit allocation amount, if any, for the
33 preceding calendar year, or years.

34 (e) In the case where the credit allowed under this section
35 exceeds the “net tax,” the excess credit may be carried over to
36 reduce the “net tax” in the following taxable year, and succeeding
37 taxable years, if necessary, until the credit has been exhausted.

38 (f) If a qualified taxpayer fails to comply with the requirements
39 of this section or with Part 38 (commencing with Section 64200)
40 of Division 4 of Title 2 of the Education Code, the credit shall be

1 disallowed and assessed and collected under Section 19051 until
2 the requirements are satisfied.

3 SEC. 4. Section 23610.6 is added to the Revenue and Taxation
4 Code, to read:

5 23610.6. (a) For taxable years beginning on or after January
6 1, 2011, there shall be allowed to a qualified taxpayer as a credit
7 against the “tax,” as defined in Section 23036, an amount equal
8 to that allocated to a qualified taxpayer by the ~~State Department~~
9 ~~of Education~~ *Superintendent of Public Instruction* pursuant to
10 Section 64202 of the Education Code.

11 (b) For purposes of this section a “qualified taxpayer” means
12 an applicant, as defined in Section 64201 of the Education Code,
13 that is subject to the taxes imposed by this part.

14 (c) Upon the request of the Franchise Tax Board, the qualified
15 taxpayer shall provide a copy of the certification provided pursuant
16 to Section 64202 of the Education Code to the Franchise Tax
17 Board.

18 (d) The aggregate amount of credits that may be allocated in
19 any calendar year pursuant to this section and Section 17057.6
20 shall be an amount equal to the sum of the following:

21 (1) Seventy-eight million dollars (\$78,000,000) for the 2011
22 calendar year.

23 (2) (A) One hundred million dollars (\$100,000,000) for the
24 2012 calendar year, hereafter the baseline amount, and each
25 calendar year thereafter. For each subsequent calendar year, the
26 baseline amount shall be adjusted by the Franchise Tax Board to
27 reflect the rate of inflation or deflation from the previous date that
28 the baseline amount was established, as measured by the Consumer
29 Price Index or other method of measuring the rate of inflation or
30 deflation which the Franchise Tax Board determines is reliable
31 and generally accepted.

32 (B) The unused credit allocation amount, if any, for the
33 preceding fiscal year, or years.

34 (e) In the case where the credit allowed under this section
35 exceeds the “tax,” the excess credit may be carried over to reduce
36 the “tax” in the following taxable year, and succeeding taxable
37 years, if necessary, until the credit has been exhausted.

38 (f) If a qualified taxpayer fails to comply with the requirements
39 of this section or with Part 38 (commencing with Section 64200)
40 of Division 4 of Title 2 of the Education Code, the credit shall be

1 disallowed and assessed and collected under Section 19051 until
2 the requirements are satisfied.

3 SEC. 5. Section 23622.7 of the Revenue and Taxation Code
4 is amended to read:

5 23622.7. (a) There shall be allowed a credit against the “tax”
6 (as defined by Section 23036) to a taxpayer who employs a
7 qualified employee in an enterprise zone during the taxable year.
8 The credit shall be equal to the sum of each of the following:

9 (1) Fifty percent of qualified wages in the first year of
10 employment.

11 (2) Forty percent of qualified wages in the second year of
12 employment.

13 (3) Thirty percent of qualified wages in the third year of
14 employment.

15 (4) Twenty percent of qualified wages in the fourth year of
16 employment.

17 (5) Ten percent of qualified wages in the fifth year of
18 employment.

19 (b) For purposes of this section:

20 (1) “Qualified wages” means:

21 (A) (i) Except as provided in clause (ii), that portion of wages
22 paid or incurred by the taxpayer during the taxable year to qualified
23 employees that does not exceed 150 percent of the minimum wage.

24 (ii) For up to 1,350 qualified employees who are employed by
25 the taxpayer in the Long Beach Enterprise Zone in aircraft
26 manufacturing activities described in Codes 3721 to 3728,
27 inclusive, and Code 3812 of the Standard Industrial Classification
28 (SIC) Manual published by the United States Office of
29 Management and Budget, 1987 edition, “qualified wages” means
30 that portion of hourly wages that does not exceed 202 percent of
31 the minimum wage.

32 (B) Wages received during the 60-month period beginning with
33 the first day the employee commences employment with the
34 taxpayer. Reemployment in connection with any increase, including
35 a regularly occurring seasonal increase, in the trade or business
36 operations of the taxpayer does not constitute commencement of
37 employment for purposes of this section.

38 (C) Qualified wages do not include any wages paid or incurred
39 by the taxpayer on or after the zone expiration date. However,
40 wages paid or incurred with respect to qualified employees who

1 are employed by the taxpayer within the enterprise zone within
2 the 60-month period prior to the zone expiration date shall continue
3 to qualify for the credit under this section after the zone expiration
4 date, in accordance with all provisions of this section applied as
5 if the enterprise zone designation were still in existence and
6 binding.

7 (2) “Minimum wage” means the wage established by the
8 Industrial Welfare Commission as provided for in Chapter 1
9 (commencing with Section 1171) of Part 4 of Division 2 of the
10 Labor Code.

11 (3) “Zone expiration date” means the date the enterprise zone
12 designation expires, is no longer binding, or becomes inoperative.

13 (4) (A) “Qualified employee” means an individual who meets
14 all of the following requirements:

15 (i) At least 90 percent of whose services for the taxpayer during
16 the taxable year are directly related to the conduct of the taxpayer’s
17 trade or business located in an enterprise zone.

18 (ii) Performs at least 50 percent of his or her services for the
19 taxpayer during the taxable year in an enterprise zone.

20 (iii) Is hired by the taxpayer after the date of original designation
21 of the area in which services were performed as an enterprise zone.

22 (iv) Is any of the following:

23 (I) Immediately preceding the qualified employee’s
24 commencement of employment with the taxpayer, was a person
25 eligible for services under the federal Job Training Partnership
26 Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving,
27 or is eligible to receive, subsidized employment, training, or
28 services funded by the federal Job Training Partnership Act, or its
29 successor.

30 (II) Immediately preceding the qualified employee’s
31 commencement of employment with the taxpayer, was a person
32 eligible to be a voluntary or mandatory registrant under the Greater
33 Avenues for Independence Act of 1985 (GAIN) provided for
34 pursuant to Article 3.2 (commencing with Section 11320) of
35 Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions
36 Code, or its successor.

37 (III) Immediately preceding the qualified employee’s
38 commencement of employment with the taxpayer, was an
39 economically disadvantaged individual 14 years of age or older.

1 (IV) Immediately preceding the qualified employee's
2 commencement of employment with the taxpayer, was a dislocated
3 worker who meets any of the following:

4 (ia) Has been terminated or laid off or who has received a notice
5 of termination or layoff from employment, is eligible for or has
6 exhausted entitlement to unemployment insurance benefits, and
7 is unlikely to return to his or her previous industry or occupation.

8 (ib) Has been terminated or has received a notice of termination
9 of employment as a result of any permanent closure or any
10 substantial layoff at a plant, facility, or enterprise, including an
11 individual who has not received written notification but whose
12 employer has made a public announcement of the closure or layoff.

13 (ic) Is long-term unemployed and has limited opportunities for
14 employment or reemployment in the same or a similar occupation
15 in the area in which the individual resides, including an individual
16 55 years of age or older who may have substantial barriers to
17 employment by reason of age.

18 (id) Was self-employed (including farmers and ranchers) and
19 is unemployed as a result of general economic conditions in the
20 community in which he or she resides or because of natural
21 disasters.

22 (ie) Was a civilian employee of the Department of Defense
23 employed at a military installation being closed or realigned under
24 the Defense Base Closure and Realignment Act of 1990.

25 (if) Was an active member of the Armed Forces or National
26 Guard as of September 30, 1990, and was either involuntarily
27 separated or separated pursuant to a special benefits program.

28 (ig) Is a seasonal or migrant worker who experiences chronic
29 seasonal unemployment and underemployment in the agriculture
30 industry, aggravated by continual advancements in technology and
31 mechanization.

32 (ih) Has been terminated or laid off, or has received a notice of
33 termination or layoff, as a consequence of compliance with the
34 Clean Air Act.

35 (V) Immediately preceding the qualified employee's
36 commencement of employment with the taxpayer, was a disabled
37 individual who is eligible for or enrolled in, or has completed a
38 state rehabilitation plan or is a service-connected disabled veteran,
39 veteran of the Vietnam era, or veteran who is recently separated
40 from military service.

1 (VI) Immediately preceding the qualified employee's
2 commencement of employment with the taxpayer, was an
3 ex-offender. An ex-offender means an individual who has been
4 convicted of a felony or a misdemeanor offense punishable by
5 incarceration or a person charged with a felony offense or a
6 misdemeanor offense punishable by incarceration but placed on
7 probation by a state court without a finding of guilt. Ex-offender
8 shall not include an individual whose record has been expunged.

9 (VII) Immediately preceding the qualified employee's
10 commencement of employment with the taxpayer, was a person
11 eligible for or a recipient of any of the following:

12 (ia) Federal Supplemental Security Income benefits.

13 (ib) Temporary Assistance for Needy Families.

14 (ic) Food stamps.

15 (id) State and local general assistance.

16 (VIII) Immediately preceding the qualified employee's
17 commencement of employment with the taxpayer, was a member
18 of a federally recognized Indian tribe, band, or other group of
19 Native American descent.

20 (IX) An employee who qualified the taxpayer for the enterprise
21 zone hiring credit under former Section 23622 or the program area
22 hiring credit under former Section 23623.

23 (X) Immediately preceding the qualified employee's
24 commencement of employment with the taxpayer, was a member
25 of a targeted group, as defined in Section 51(d) of the Internal
26 Revenue Code, or its successor.

27 (B) Priority for employment shall be provided to an individual
28 who is enrolled in a qualified program under the federal Workforce
29 Investment Act or the California Work Opportunity and
30 Responsibility to Kids Act (CalWORKs) or who is eligible as a
31 member of a targeted group under the Work Opportunity Tax
32 Credit (Section 51 of the Internal Revenue Code), or its successor.

33 (5) "Taxpayer" means a corporation engaged in a trade or
34 business within an enterprise zone designated pursuant to Chapter
35 12.8 (commencing with Section 7070) of Division 7 of Title 1 of
36 the Government Code.

37 (6) "Seasonal employment" means employment by a taxpayer
38 that has regular and predictable substantial reductions in trade or
39 business operations.

40 (c) The taxpayer shall do both of the following:

1 (1) (A) Obtain, within 42 days from the commencement date
2 of employment, from the Employment Development Department,
3 as permitted by federal law, the local county or city Workforce
4 Investment Act administrative entity, the local county CalWORKs
5 office or social services agency, or the local government
6 administering the enterprise zone, a certification that provides that
7 a qualified employee meets the eligibility requirements specified
8 in clause (iv) of subparagraph (A) of paragraph (4) of subdivision
9 (b). The Employment Development Department may provide
10 preliminary screening and referral to a certifying agency. The
11 Employment Development Department shall develop a form for
12 this purpose. The Department of Housing and Community
13 Development shall develop regulations governing the issuance of
14 certificates by local governments pursuant to subdivision (a) of
15 Section 7086 of the Government Code.

16 (B) Applications for certification shall be submitted to the
17 certifying agency within 28 days of the commencement date of
18 employment for the employee. The certifying agency shall not
19 provide a certification for any employee whose employment
20 commenced more than 28 days before the taxpayer requests a
21 certification.

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

24 (d) (1) For purposes of this section:

25 (A) All employees of all corporations which are members of
26 the same controlled group of corporations shall be treated as
27 employed by a single taxpayer.

28 (B) The credit, if any, allowable by this section to each member
29 shall be determined by reference to its proportionate share of the
30 expense of the qualified wages giving rise to the credit, and shall
31 be allocated in that manner.

32 (C) For purposes of this subdivision, “controlled group of
33 corporations” means “controlled group of corporations” as defined
34 in Section 1563(a) of the Internal Revenue Code, except that:

35 (i) “More than 50 percent” shall be substituted for “at least 80
36 percent” each place it appears in Section 1563(a)(1) of the Internal
37 Revenue Code.

38 (ii) The determination shall be made without regard to
39 subsections (a)(4) and (e)(3)(C) of Section 1563 of the Internal
40 Revenue Code.

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

10 (e) (1) (A) If the employment, other than seasonal employment,
11 of any qualified employee with respect to whom qualified wages
12 are taken into account under subdivision (a) is terminated by the
13 taxpayer at any time during the first 270 days of that employment,
14 whether or not consecutive, or before the close of the 270th
15 calendar day after the day in which that employee completes 90
16 days of employment with the taxpayer, the tax imposed by this
17 part for the taxable year in which that employment is terminated
18 shall be increased by an amount equal to the credit allowed under
19 subdivision (a) for that taxable year and all prior taxable years
20 attributable to qualified wages paid or incurred with respect to that
21 employee.

22 (B) If the seasonal employment of any qualified employee, with
23 respect to whom qualified wages are taken into account under
24 subdivision (a) is not continued by the taxpayer for a period of
25 270 days of employment during the 60-month period beginning
26 with the day the qualified employee commences seasonal
27 employment with the taxpayer, the tax imposed by this part, for
28 the taxable year that includes the 60th month following the month
29 in which the qualified employee commences seasonal employment
30 with the taxpayer, shall be increased by an amount equal to the
31 credit allowed under subdivision (a) for that taxable year and all
32 prior taxable years attributable to qualified wages paid or incurred
33 with respect to that qualified employee.

34 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
35 any of the following:

36 (i) A termination of employment of a qualified employee who
37 voluntarily leaves the employment of the taxpayer.

38 (ii) A termination of employment of a qualified employee who,
39 before the close of the period referred to in subparagraph (A) of
40 paragraph (1), becomes disabled and unable to perform the services

1 of that employment, unless that disability is removed before the
2 close of that period and the taxpayer fails to offer reemployment
3 to that employee.

4 (iii) A termination of employment of a qualified employee, if
5 it is determined that the termination was due to the misconduct (as
6 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
7 the California Code of Regulations) of that employee.

8 (iv) A termination of employment of a qualified employee due
9 to a substantial reduction in the trade or business operations of the
10 taxpayer.

11 (v) A termination of employment of a qualified employee, if
12 that employee is replaced by other qualified employees so as to
13 create a net increase in both the number of employees and the
14 hours of employment.

15 (B) Subparagraph (B) of paragraph (1) shall not apply to any
16 of the following:

17 (i) A failure to continue the seasonal employment of a qualified
18 employee who voluntarily fails to return to the seasonal
19 employment of the taxpayer.

20 (ii) A failure to continue the seasonal employment of a qualified
21 employee who, before the close of the period referred to in
22 subparagraph (B) of paragraph (1), becomes disabled and unable
23 to perform the services of that seasonal employment, unless that
24 disability is removed before the close of that period and the
25 taxpayer fails to offer seasonal employment to that qualified
26 employee.

27 (iii) A failure to continue the seasonal employment of a qualified
28 employee, if it is determined that the failure to continue the
29 seasonal employment was due to the misconduct (as defined in
30 Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California
31 Code of Regulations) of that qualified employee.

32 (iv) A failure to continue seasonal employment of a qualified
33 employee due to a substantial reduction in the regular seasonal
34 trade or business operations of the taxpayer.

35 (v) A failure to continue the seasonal employment of a qualified
36 employee, if that qualified employee is replaced by other qualified
37 employees so as to create a net increase in both the number of
38 seasonal employees and the hours of seasonal employment.

1 (C) For purposes of paragraph (1), the employment relationship
2 between the taxpayer and a qualified employee shall not be treated
3 as terminated by either of the following:

4 (i) By a transaction to which Section 381(a) of the Internal
5 Revenue Code applies, if the qualified employee continues to be
6 employed by the acquiring corporation.

7 (ii) By reason of a mere change in the form of conducting the
8 trade or business of the taxpayer, if the qualified employee
9 continues to be employed in that trade or business and the taxpayer
10 retains a substantial interest in that trade or business.

11 (3) Any increase in tax under paragraph (1) shall not be treated
12 as tax imposed by this part for purposes of determining the amount
13 of any credit allowable under this part.

14 (f) Rules similar to the rules provided in Section 46(e) and (h)
15 of the Internal Revenue Code shall apply to both of the following:

16 (1) An organization to which Section 593 of the Internal
17 Revenue Code applies.

18 (2) A regulated investment company or a real estate investment
19 trust subject to taxation under this part.

20 (g) For purposes of this section, “enterprise zone” means an
21 area designated as an enterprise zone pursuant to Chapter 12.8
22 (commencing with Section 7070) of Division 7 of Title 1 of the
23 Government Code.

24 (h) The credit allowable under this section shall be reduced by
25 the credit allowed under Sections 23623.5, 23625, and 23646
26 claimed for the same employee. The credit shall also be reduced
27 by the federal credit allowed under Section 51 of the Internal
28 Revenue Code.

29 In addition, any deduction otherwise allowed under this part for
30 the wages or salaries paid or incurred by the taxpayer upon which
31 the credit is based shall be reduced by the amount of the credit,
32 prior to any reduction required by subdivision (i) or (j).

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

39 (j) (1) The amount of the credit otherwise allowed under this
40 section and Section 23612.2, including any credit carryover from

1 prior years, that may reduce the “tax” for the taxable year shall
2 not exceed the amount of tax which would be imposed on the
3 taxpayer’s business income attributable to the enterprise zone
4 determined as if that attributable income represented all of the
5 income of the taxpayer subject to tax under this part.

6 (2) Attributable income shall be that portion of the taxpayer’s
7 California source business income that is apportioned to the
8 enterprise zone. For that purpose, the taxpayer’s business
9 attributable to sources in this state first shall be determined in
10 accordance with Chapter 17 (commencing with Section 25101).
11 That business income shall be further apportioned to the enterprise
12 zone in accordance with Article 2 (commencing with Section
13 25120) of Chapter 17, modified for purposes of this section in
14 accordance with paragraph (3).

15 (3) Business income shall be apportioned to the enterprise zone
16 by multiplying the total California business income of the taxpayer
17 by a fraction, the numerator of which is the property factor plus
18 the payroll factor, and the denominator of which is two. For
19 purposes of this paragraph:

20 (A) The property factor is a fraction, the numerator of which is
21 the average value of the taxpayer’s real and tangible personal
22 property owned or rented and used in the enterprise zone during
23 the income year, and the denominator of which is the average value
24 of all the taxpayer’s real and tangible personal property owned or
25 rented and used in this state during the income year.

26 (B) The payroll factor is a fraction, the numerator of which is
27 the total amount paid by the taxpayer in the enterprise zone during
28 the income year for compensation, and the denominator of which
29 is the total compensation paid by the taxpayer in this state during
30 the income year.

31 (4) The portion of any credit remaining, if any, after application
32 of this subdivision, shall be carried over to succeeding taxable
33 years, as if it were an amount exceeding the “tax” for the taxable
34 year, as provided in subdivision (i).

35 (k) The changes made to this section by the act adding this
36 subdivision shall apply to taxable years on or after January 1, 1997.

37 (l) The changes made to this section by the act adding this
38 subdivision shall apply to any qualified employee who commences
39 employment on or after January 1, 2011.

1 SEC. 6. This act provides for a tax levy within the meaning of
2 Article IV of the Constitution and shall go into immediate effect.

O