

ASSEMBLY BILL

No. 2582

Introduced by Assembly Member Maienschein

February 19, 2016

An act to add Sections 17053.75 and 23675 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2582, as introduced, Maienschein. Income taxes: credit: employees with disabilities.

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

This bill, for taxable years beginning on and after January 1, 2017, would allow a credit under those laws to an employer who pays a qualified employee a wage equal to or exceeding the state minimum wage during the taxable year, as provided. The bill would define a qualified employee as an individual with a disability who may be paid a special minimum wage under existing state or federal law. The credit would be allowed in an amount equal to the difference between the special minimum wage and the state minimum wage, multiplied by the hours worked by the qualified employee.

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 17053.75 is added to the Revenue and
- 2 Taxation Code, to read:

1 17053.75. (a) For taxable years beginning on or after January
2 1, 2017, there shall be allowed a credit against the “net tax,” as
3 defined by Section 17039, to a qualified employer who pays a
4 qualified employee a wage that equals or exceeds the state
5 minimum wage during the taxable year.

6 (b) The credit shall be in an amount that is equal to the
7 difference between the special minimum wage that may be paid
8 to the qualified employee and the state minimum wage, multiplied
9 by the number of hours worked by the qualified employee for the
10 qualified employer during the taxable year.

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

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

17 (2) “Qualified employee” means an individual who may be paid
18 a special minimum wage pursuant to Section 214(c) of Title 29 of
19 the United States Code or Section 1191 or 1191.5 of the Labor
20 Code.

21 (3) (A) “Qualified employer” means a taxpayer that employs
22 a qualified employee in this state.

23 (B) In the case of any pass-thru entity, the determination of
24 whether a taxpayer is a qualified employer under this section shall
25 be made at the entity level, and any credit under this section or
26 Section 23675 shall be allowed to the pass-thru entity and passed
27 through to the partners or shareholders in accordance with
28 applicable provisions of this part or Part 11 (commencing with
29 Section 23001). For purposes of this section, the term “pass-thru
30 entity” means any partnership or “S” Corporation.

31 (d) A qualified employer shall do both of the following:

32 (1) Obtain from the Industrial Welfare Commission a
33 certification that a qualified employee meets the eligibility
34 requirements of paragraph (2) of subdivision (c). The certification
35 shall include the dollar amount of special minimum wage
36 applicable to each qualified employee.

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

39 (e) The Franchise Tax Board may prescribe rules, guidelines,
40 or procedures necessary or appropriate to carry out the purposes

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

6 SEC. 2. Section 23675 is added to the Revenue and Taxation
7 Code, to read:

8 23675. (a) For taxable years beginning on or after January 1,
9 2017, there shall be allowed a credit against the “tax,” as defined
10 by Section 23036, to a qualified employer who pays a qualified
11 employee a wage that equals or exceeds the state minimum wage
12 during the taxable year.

13 (b) The credit shall be in an amount that is equal to the
14 difference between the special minimum wage that may be paid
15 to the qualified employee and the state minimum wage, multiplied
16 by the number of hours worked by the qualified employee for the
17 qualified employer during the taxable year.

18 (c) For purposes of this section, the following definitions shall
19 apply:

20 (1) “Minimum wage” means the wage established by the
21 Industrial Welfare Commission as provided for in Chapter 1
22 (commencing with Section 1171) of Part 4 of Division 2 of the
23 Labor Code.

24 (2) “Qualified employee” means an individual who may be paid
25 a special minimum wage pursuant to Section 214(c) of Title 29 of
26 the United States Code or Section 1191 or 1191.5 of the Labor
27 Code.

28 (3) (A) “Qualified employer” means a taxpayer that employs
29 a qualified employee in this state.

30 (B) In the case of any pass-thru entity, the determination of
31 whether a taxpayer is a qualified taxpayer under this section shall
32 be made at the entity level, and any credit under this section or
33 Section 17053.75 shall be allowed to the pass-thru entity and
34 passed through to the partners in accordance with applicable
35 provisions of this part or Part 10 (commencing with Section
36 17001). For purposes of this subparagraph, the term “pass-thru
37 entity” means any partnership.

38 (d) A qualified employer shall do both of the following:

39 (1) Obtain from the Industrial Welfare Commission a
40 certification that a qualified employee meets the eligibility

1 requirements of paragraph (2) of subdivision (c). The certification
2 shall include the dollar amount of special minimum wage
3 applicable to each qualified employee.

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

6 (e) The Franchise Tax Board may prescribe rules, guidelines,
7 or procedures necessary or appropriate to carry out the purposes
8 of this section. Chapter 3.5 (commencing with Section 11340) of
9 Part 1 of Division 3 of Title 2 of the Government Code does not
10 apply to any standard, criterion, procedure, determination, rule,
11 notice, or guideline established or issued by the Franchise Tax
12 Board pursuant to this section.

13 SEC. 3. It is the intent of the Legislature to enact legislation
14 to comply with the requirements of Section 41.

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