F I S C A L   I M P A C T   R E P O R T

ORIGINAL DATE 02/14/13
SPONSOR Lopez **LAST UPDATED** **HB**

SHORT TITLE Investment Credit Act Participation **SB** 426

ANALYST Smith

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY13	**FY14**	**FY15**	**FY16**	**FY17**		
$0.0	($606.0)	($654.0)	($708.0)	($750.0)	Recurring	General Fund
$0.0	($404.0)	($436.0)	($472.0)	($500.0)	Recurring	Local Governments
$0.0	**($1,010.0)**	**($1,090.0)**	**($1,180.0)**	**($1,250.0)**	**Recurring**	**Total**

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Taxation and Revenue Department (TRD)
Department of Finance and Administration (DFA)
Economic Development Department (EDD)

SUMMARY

Synopsis of Bill

FISCAL IMPLICATIONS

Senate Bill 426 expands eligibility for the credit to a taxpayer who prior to July 1, 2020. Increase the aggregate annual wages paid to all full-time employees in the taxable year by an amount equal to the average of the annual wages and benefits paid to all employees by the taxpayer in the year prior to the taxable year for every:

- five hundred thousand dollars ($500,000), or portion of that amount, in value of qualified equipment claimed by the taxpayer in a taxable year in the same claim, up to a value of thirty million dollars ($30,000,000); or
- one million dollars ($1,000,000), or portion of that amount, in value of qualified equipment over thirty million dollars ($30,000,000) claimed by the taxpayer in a taxable year in the same claim.

After July 1, 2020, eligibility for the credit is expanded to a taxpayer who increases the aggregate annual wages paid to all full-time employees in the taxable year by at least an amount equal to the average of the annual wages and benefits paid to all employees by the taxpayer in the year prior to the taxable year.

Effective Date: July 1, 2013

FISCAL IMPLICATIONS

TRD notes that this bill eases the qualifying requirements slightly by giving firms a choice between adding jobs and adding salary. In some limited cases, it may be advantageous for a firm to invest in equipment and increase wages rather than add any new jobs. TRD estimates this may result in a 5 percent increase in credits using FY2012 credits as a baseline. Changing the "and" to an "or" on page 3, line 7 may have unintended consequences for investments above $30 million (See Technical Issues).

This bill may be counter to the LFC tax policy principle of adequacy, efficiency and equity. Due to the increasing cost of tax expenditures revenues may be insufficient to cover growing recurring appropriations.

Estimating the cost of tax expenditures is difficult. Confidentiality requirements surrounding certain taxpayer information create uncertainty, and analysts must frequently interpret third-party data sources. The statutory criteria for a tax expenditure may be ambiguous, further complicating the initial cost estimate of the expenditure's fiscal impact. Once a tax expenditure has been approved, information constraints continue to create challenges in tracking the real costs (and benefits) of tax expenditures.

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is <u>not</u> met since TRD is <u>not</u> required in the bill to report annually to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the deduction and other information to determine whether the deduction is meeting its purpose.

TECHNICAL ISSUES

TRD notes the following issue:

- Replacing the "and" with an "or" on page 3, line 7 and similarly including an "or" in the new language on page 3, line 21, confuses the issue of how many jobs must be added in order to take the credit for investments larger than $30 million. It may create a disincentive to large investments. Under current law, a firm must add one job for every $500,000 investment up to $30 million ***<u>and</u>*** one job for every $1 million over $30 million. As written, this bill effectively gives the firm the choice of one job for every

$500,000 investment up to $30 million ***or*** one job for every $1 million over $30 million. Firms would naturally choose whichever was most advantageous. The same applies to the new language on page 3, line 21 giving firms the option of increasing wages by the average wage for every $500,000 investment up to $30 million ***or*** one times the average for every $1 million over $30 million.

EDD states that "The language defining "increased wages" is obtuse and unclear. To wit: "The Taxpayer shall… increase the aggregate annual wages paid to all full-time employees in the taxable year by an amount equal to the average of the annual wages and benefits paid to all employees by the taxpayer in the year prior to the taxable year". This mandate would require an employer to substantially increase the wages of full time employees in order to qualify under the above definition. It is unclear how the company will calculate the amount or how taxation and revenue will verify the information."

This bill does not contain a sunset date. The LFC recommends adding a sunset date.

POSSIBLE QUESTIONS

Does the bill meet the Legislative Finance Committee tax policy principles?

1. **Adequacy**: Revenue should be adequate to fund needed government services.
2. **Efficiency**: Tax base should be as broad as possible and avoid excess reliance on one tax.
3. **Equity**: Different taxpayers should be treated fairly.
4. **Simplicity**: Collection should be simple and easily understood.
5. **Accountability**: Preferences should be easy to monitor and evaluate

SS/blm