

REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: June 1, 2022

TO: Honorable Members of the Rules, Elections, and Intergovernmental Relations Committee

FROM: Sharon M. Tso 
Chief Legislative Analyst

Council File No. 22-0002-S70
Assignment No. 22-05-0331

SUBJECT: Resolution (O'Farrell – Martinez) to SUPPORT AB 1864 (Gipson)

CLA RECOMMENDATION: Adopt Resolution (O'Farrell – Martinez) to include in the City's 2021-22 State Legislative Program SUPPORT for AB 1864 (Gipson) which would provide tax credits to small businesses that hire workers who live near their primary worksite.

SUMMARY

Resolution (O'Farrell – Martinez), introduced on April 29, 2022, states that ninety-five percent of businesses in California are small businesses with less than 50 employees. The Resolution indicates that small businesses in the City provide critical goods and services, are part of their neighborhood's identity, generate tax revenue to fund City services, and are key to the City's continued recovery from the COVID-19 pandemic. The Resolution notes that the City supports small businesses through such programs as the BusinessSource Center Program, the Local Business Preference Program, and the Council District 13 Small Business Grant (C.F. 20-0582). According to the Resolution, the City should further assist small businesses by simplifying the process of hiring local workers.

Pending before the Legislature is AB 1864 (Gipson) which would provide tax credits to small businesses that hire workers who live near the employee's primary worksite. The Resolution indicates that the bill would increase the number of workers who work in their local communities and, by doing so, would help reduce commuting costs and greenhouse gas emissions. The Resolution recommends that the City support AB 1864 (Gipson).

BACKGROUND

Recent studies have indicated that the Los Angeles region is undergoing an economic recovery from the COVID-19 pandemic. In December 2021, a study conducted by the Southern California Association of Governments (SCAG) showed that Los Angeles County employment is projected to increase by approximately 91,000 jobs annually from 2020 through 2025. The study anticipates that all jobs lost during the COVID-19 pandemic will be regained by 2023. However, the study notes that women and people of color continue to be disproportionately represented in low-wage occupations. It is also expected that the county will continue to experience supply chain issues, inflation, and labor shortages.

The City operates various programs to assist small businesses. This includes the BusinessSource Center Program which is operated by the Economic and Workforce Development Department and funded with Community Development Block Grant funds. The program provides assistance to business owners or entrepreneurs in ten centers in various locations throughout the City. The

program is focused on microenterprises with five or fewer employees as well as small businesses with six to 500 employees.

The City's Local Business Preference Program is implemented by the Bureau of Contract Administration and provides local business an advantage to contracting with the City by providing a bid preference to a local bidder. The program is intended to encourage local businesses to compete for City contracting opportunities and to discourage existing businesses from relocating to less expensive regions. The program also provides a bid preference to businesses who work with vulnerable populations such as homeless individuals and youth transitioning out of foster care.

On February 8, 2022, AB 1864 (Gipson) was introduced. The bill would provide a \$434 tax credit beginning on January 1, 2023 to small businesses that employ fewer than 49 employees. In order for the business owner to receive the credit, the employee would be required to have their permanent place of residence be within a five-mile radius of the employee's primary worksite. The bill would also require the Franchise Tax Board to report to the Legislature on the total amount of credits claimed and the number of qualified employees hired. According to the bill's author, the legislation is intended to incentivize small businesses to hire locally and to assist communities affected by the COVID-19 pandemic. In addition, the legislation is also anticipated to address greenhouse emissions, reduce employees' commuting costs, and enable local governments to retain tax revenue.

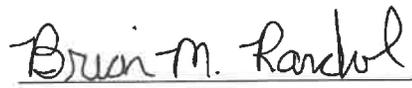
The bill is consistent with existing City programs that assist small businesses and support local jobs. Therefore, we recommend that the Council support AB 1864 (Gipson).

DEPARTMENT NOTIFIED

Economic and Workforce Development Department

BILL STATUS

2/8/22	Introduced
3/24/22	Referred to the Committee on Revenue and Taxation
3/24/22	From committee chair, with author amendments. Amended and re-referred to Committee on Revenue and Taxation
5/2/22	In committee: hearing for testimony only


Brian M. Randol
Analyst

Attachments: 1. Resolution
2. AB 1864

RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must first have been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, ninety-five percent of businesses in California are small businesses with less than 50 employees, and these businesses employ more than one-third of California workers and also employ diverse populations and help families build intergenerational wealth; and

WHEREAS, small businesses in the City of Los Angeles provide critical goods and services, are part of their neighborhood's identity, and generate tax revenue to fund City services; and

WHEREAS, small businesses generate thousands of jobs and are key to the City's continued recovery from the COVID-19 pandemic; and

WHEREAS, the City supports small businesses through such programs as the BusinessSource Center Program, the Local Business Preference Program, and the Council District 13 Small Business Grant Program that provided financial relief for small businesses during the pandemic (C.F. 20-0582); and

WHEREAS, the City should further assist small businesses by making it easier to hire local workers; and

WHEREAS, pending before the Legislature is AB 1864 (Gipson) which would provide tax credits to small businesses that hire workers who live near the employee's primary worksite; and

WHEREAS, AB 1864 would increase the number of workers who work in their local communities which would, in turn, help reduce commuting costs and greenhouse gas emissions; and

WHEREAS, keeping economic activity within the City will help generate additional revenues for critical City services; and

WHEREAS, the legislation is consistent with existing City programs and policies that assist small businesses, and should be supported;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2021-22 State Legislative Program SUPPORT for AB 1864 (Gipson) which would provide tax credits to small businesses that hire workers who live near their primary worksite.

PRESENTED BY: Mitch O'Farrell
MITCH O'FARRELL
Councilmember, 13th District

SECONDED BY: Mary Martinez

M. D.
APR 29 2022

ORIGINAL

AMENDED IN ASSEMBLY APRIL 18, 2022
AMENDED IN ASSEMBLY MARCH 24, 2022
CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 1864

Introduced by Assembly Member Gipson

February 8, 2022

An act to add and repeal Sections 17053.82 and 23682 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1864, as amended, Gipson. Income taxation: credits: small business employers.

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

This bill, under both laws, for taxable years beginning on or after January 1, 2023, and before January 1, 2028, would allow a credit against those taxes to qualified small business employers in an unspecified amount *equal to \$434* for each newly hired employee, as specified, whose permanent place of residence is within a 5-mile radius of the employee's primary worksite.

Existing law requires any bill authorizing a new tax expenditure to contain, among other things, specific goals, purposes, and objectives that the tax expenditure will achieve, detailed performance indicators, and data collection requirements.

This bill would include additional information required for any bill authorizing a new tax expenditure.

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. (a) The Legislature finds and declares as follows:

2 (1) Industries hit hardest by COVID-19, which include small
3 businesses with less than 50 employees, have higher rates of Asian,
4 Latino, and women ownership. In particular, one-third in this
5 heavily affected sector are Asian-owned businesses. Women also
6 own 26 percent of very small businesses in these industries.
7 Another 20 percent are jointly owned by men and women.

8 (2) Ninety-five percent of businesses are very small businesses
9 with less than 50 employees, and these businesses employ one-third
10 of California’s workers.

11 (3) Small business tends to employ the most diverse populations,
12 including people of color and women, and are a part of the
13 American fabric that provide an access point for individuals and
14 working families opportunities toward entrepreneurship and the
15 onlook in building generational wealth.

16 (4) Small businesses are more likely to be owned by women
17 and nonwhite Californians than larger businesses. Latinos own 11
18 percent of these businesses but only 2 percent of larger businesses.
19 Similarly, Asians own 23 percent of very small businesses versus
20 roughly 10 percent of larger businesses. In California, women run
21 22 percent of those businesses, compared to 7 percent of larger
22 businesses.

23 (5) The positive impact of small business activity toward local
24 governments, with the contribution of local tax dollars, provides
25 long-term benefits for a variety of populations.

26 (6) Historically, our state’s most disadvantaged communities
27 disproportionately struggle with job scarcity due to limited
28 employment opportunities. As a result, members of these
29 communities live in commuter regions with high transportation
30 costs, and those individuals experience a reduced quality of life
31 and further economic issues.

32 (7) High commuter regions additionally exacerbate
33 environmental concerns at a time when the state must innovate its
34 approach toward meeting its mitigation goals.

1 (b) It is the intent of the Legislature to further support small
2 businesses and local governments by incentivizing local hire, which
3 would also retain critical revenue to assist our communities through
4 the pandemic and onward.

5 SEC. 2. Section 17053.82 is added to the Revenue and Taxation
6 Code, to read:

7 17053.82. (a) For each taxable year beginning on or after
8 January 1, 2023, and before January 1, 2028, there shall be allowed
9 a credit against the “net tax,” as defined in Section 17039, to a
10 qualified small business employer in an amount equal to ~~_____~~ *four*
11 *hundred thirty-four* dollars (~~\$_____~~) (*\$434*) per qualified employee.

12 (b) For purposes of this section:

13 (1) “Public employer” means:

14 (A) The state and every state entity, including, but not limited
15 to, the Legislature, the judicial branch, the University of California,
16 and the California State University.

17 (B) A political subdivision of the state, or agency or
18 instrumentality of the state or subdivision of the state, including,
19 but not limited to, a city, county, city and county, charter city,
20 charter county, school district, community college district, joint
21 powers authority, joint powers agency, and any public agency,
22 authority, board, commission, or district.

23 (2) “Qualified employee” means an employee of the qualified
24 small business employer who is performing services for the
25 employer in this state and who meets all of the following
26 requirements:

27 (A) The employee is full-time, as designated by the employer.

28 (B) The employee’s permanent place of residence is within a
29 five-mile radius of the employee’s primary worksite.

30 (C) The employee has worked for the employer for at least 6
31 months but less than 18 months at the time the credit is claimed.

32 (3) (A) “Qualified small business employer” means an employer
33 that employs fewer than 49 employees on average at any time
34 during the taxable year.

35 (B) “Qualified small business employer” shall not include a
36 public employer.

37 (c) The credit allowed in subdivision (a) shall only be allowed
38 to a qualified small business employer once per qualified employee
39 regardless of whether an employee is rehired.

1 (d) If the credit allowed by this section exceeds the “net tax,”
2 the excess may be carried over to reduce the “net tax” in the
3 following year, and succeeding years if necessary, until the credit
4 has been exhausted.

5 (e) This section shall remain in effect only until December 1,
6 2028, and as of that date is repealed.

7 SEC. 3. Section 23682 is added to the Revenue and Taxation
8 Code, to read:

9 23682. (a) For each taxable year beginning on or after January
10 1, 2023, and before January 1, 2028, there shall be allowed a credit
11 against the “tax,” as defined in Section 23036, to a qualified small
12 business employer in an amount equal to ~~_____~~ *four hundred*
13 *thirty-four* dollars (~~\$_____~~) (*\$434*) per qualified employee.

14 (b) For purposes of this section:

15 (1) “Public employer” means:

16 (A) The state and every state entity, including, but not limited
17 to, the Legislature, the judicial branch, the University of California,
18 and the California State University.

19 (B) A political subdivision of the state, or agency or
20 instrumentality of the state or subdivision of the state, including,
21 but not limited to, a city, county, city and county, charter city,
22 charter county, school district, community college district, joint
23 powers authority, joint powers agency, and any public agency,
24 authority, board, commission, or district.

25 (2) “Qualified employee” means an employee of the qualified
26 small business employer who is performing services for the
27 employer in this state and who meets all of the following
28 requirements:

29 (A) The employee is full-time, as designated by the employer.

30 (B) The employee’s permanent place of residence is within a
31 five-mile radius of the employee’s primary worksite.

32 (C) The employee has worked for the employer for at least 6
33 months but less than 18 months at the time the credit is claimed.

34 (3) (A) “Qualified small business employer” means an employer
35 that employs fewer than 49 employees on average at any time
36 during the taxable year.

37 (B) “Qualified small business employer” shall not include a
38 public employer.

1 (c) The credit allowed in subdivision (a) shall only be allowed
2 to a qualified small business employer once per qualified employee,
3 regardless of whether an employee is rehired.

4 (d) If the credit allowed by this section exceeds the “tax,” the
5 excess may be carried over to reduce the “tax” in the following
6 year, and succeeding years if necessary, until the credit has been
7 exhausted.

8 (e) This section shall remain in effect only until December 1,
9 2028, and as of that date is repealed.

10 SEC. 4. For the purposes of complying with Section 41 of the
11 Revenue and Taxation Code, with respect to Sections 17053.82
12 and 23682 of the Revenue and Taxation Code, as added by this
13 act, the Legislature finds and declares all of the following:

14 (a) The specific goal, purpose, and objective that the credits
15 will achieve is to provide support to small businesses by
16 incentivizing local hire.

17 (b) Detailed performance indicators for the Legislature to use
18 in determining whether the credits meet the goal, purpose, and
19 objective described in subdivision (a) include the number of small
20 business employers who utilized the credits, the number of
21 qualified employees hired, and the total dollar amount of credits
22 claimed.

23 (c) (1) The Franchise Tax Board shall analyze the performance
24 indicators in subdivision (b) for each taxable year and shall report
25 its findings, on or before January 1, 2027, and in compliance with
26 Section 9795 of the Government Code, to the Legislature.

27 (2) The disclosure provisions of this paragraph shall be treated
28 as an exception to Section 19542 under Article 2 (commencing
29 with Section 19542) of Chapter 7 of Part 10.2 of Division 2 of the
30 Revenue and Taxation Code.

31 SEC. 5. This act provides for a tax levy within the meaning of
32 Article IV of the California Constitution and shall go into
33 immediate effect.

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