Franchise Tax Board

ANALYSIS OF AMENDED BILL

Author:	Nakano	Analyst:	Roger Lackey	Bill Number:	AB 872
Related Bills:	See Legislative History	Telephone:	845-3627	Amended Date:	04-25-2001
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: Solar Energy Credit

SUMMARY

This bill would allow a credit for a percentage of the cost of a solar energy system.

SUMMARY OF AMENDMENTS

The April 25, 2001, amendments incorporated language from the author's special session bill ABX 79, which also is a credit for the cost of a solar energy system. The language in AB 872 revised the earlier April 16, 2001, amendments that added a credit for the cost of purchasing or leasing a solar energy system.

This is the department's first analysis of this bill.

PURPOSE OF THE BILL

The author's staff has indicated that the intent is to revive the former solar energy credit, with modifications.

EFFECTIVE/OPERATIVE DATE

This bill is a tax levy and would be effective immediately upon enactment. The credit would be operative for taxable years beginning on or after January 1, 2001, and before January 1, 2006.

POSITION

Pending.

ANALYSIS

FEDERAL/STATE LAW

Federal law currently provides two energy-related credits: an investment energy credit and a business credit for the production of electricity from certain renewable resources.

Board Position:			Department Director	Date
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The energy investment credit is equal to 10% of the basis of energy property placed in service during the taxable year. Energy property includes equipment that uses solar energy to generate electricity, to heat or cool a structure, or to provide solar process heat. It also includes equipment that produces, distributes, or uses energy derived from geothermal deposits. The equipment also must meet performance and quality standards prescribed by federal regulations.

The business credit for the production of electricity from certain renewable resources is equal to 1.5 cents multiplied by the kilowatt-hours produced by the taxpayer's qualified energy resource and facility. To qualify, the energy is required to be sold to an unrelated person during the taxable year. Qualified energy resources include wind, closed-loop biomass, and poultry waste.

Former state law provided a credit equal to 10% of the cost of a solar energy system installed on premises in California and used for commercial purposes. The credit was available for taxable or income years beginning on or after January 1, 1990, and before January 1, 1994.

The credit provisions defined "solar energy system" as solar thermal electric and photovoltaic systems, but did not include devices that produced electricity through wind energy or energy conservation measures.

The former solar energy credit is further discussed in "PROGRAM BACKGROUND" below.

Current state law does not provide for a solar energy credit.

THIS BILL

This bill would allow a credit equal to 40% of the cost to purchase, lease, or install a solar energy system installed and placed in service on property located in California. The credit would be calculated after deducting the amount of any state or federal grants provided for the solar energy system.

This bill would define several terms including "qualified cost," "qualified taxpayer," "qualified property," "solar device," and "solar energy system."

A "solar device" would mean the equipment associated with the collection, conversion, transfer, distribution, storage, or control of solar energy.

A "solar energy system" would mean the use of solar devices designed or intended for the single purpose of producing electricity in excess of 30 watts per device. "Solar energy system" would include solar thermal electric systems and photovoltaic systems. Devices used to produce electricity from wind are not excluded from the definition of a "solar energy device" or a "solar energy system."

A "solar energy system" would be composed of interrelated elements that were designed and intended at the time of installation to perform the functions of a solar thermal electrical system or photovoltaic system.

This bill disallows a deduction for any costs for which a credit is allowed under this bill.

Any excess credit could be carried over and used in the following eight years.

If the solar energy system is removed from the state, disposed of to an unrelated party, or, within one year from the date the system is placed in service in this state, is used for purposes other than purposes qualifying for the credit, this bill would require the credit to be recaptured.

This bill would require the Energy Resources Conservation and Development Commission (Commission) to hold public hearings to establish guidelines, criteria, and limits on the eligible costs for a solar energy system. The guidelines and criteria would include requirements for safety, market readiness, reliability, and durability. The limit on eligible costs would be in terms of dollars per kilowatt.

This bill would allow the Commission to obtain the claimants' social security numbers or taxpayer identification numbers during the credit certification application process for purposes of identifying a qualifying taxpayer to the department. The information obtained would be used exclusively for state tax administration purposes.

<u>IMPLEMENTATION CONSIDERATIONS</u>

It is unclear if the credit is intended for devices that generate electricity from wind. A clarifying amendment would be needed to explicitly include or exclude as a “solar energy system” devices that generate electricity from wind energy. (See definition above.)

LEGISLATIVE HISTORY

ABX 79 (Nakano, 2001/2002) is similar to this bill. ABX 79 is at the Assembly Desk.

ABX 27 and AB 1124 (Koretz, 2001/2002) would allow multiple credits and an accelerated depreciation deduction for the purchase of a power generation system. ABX 27 is in the Assembly Appropriations Committee while AB 1124 is at the Assembly Desk.

ABX 15 (Rod Pacheco, 2001/2002) would allow a 100% credit for the purchase of energy conservation measures that reduce a taxpayer’s electricity and natural gas use by 5% from the previous taxable year and is in Assembly Revenue and Taxation Committee.

ABX 86 and AB 1264 (Campbell, 2001/2002) would allow a 75% credit for the purchase and installation of a solar energy system for residential purposes. Both of these bills are at the Assembly Desk.

SBX 17 (Brulte, 2001/2002) would allow a credit for the purchase and installation of a solar energy system for the production of electricity and is in Senate Revenue and Taxation Committee.

AB 873 (Takasugi, 1997/1998) would have allowed a credit equal to 40% of the cost of energy conservation measures. The bill also would have allowed a second credit equal to 10% of the cost of a solar energy system installed on premises located in California and used for commercial purposes, subject to certain requirements. The bill failed to pass the Assembly Revenue and Taxation Committee.

PROGRAM BACKGROUND

For taxable years 1990 through 1993, state law allowed a tax credit of 10% of the cost of a solar energy system installed on premises used for commercial purposes that were located in California, and owned or leased by the taxpayer. The credit could not be claimed for any solar energy system with a generating capacity in excess of 30 megawatts for any taxable year unless the federal government provided at least a 10% federal credit for that solar energy system.

For 1987 and 1988, state law allowed a credit of 12% of the cost of commercial solar energy systems installed on commercial premises, cooperatives, apartment buildings, or other similar multiple dwellings, including buildings and any other common areas of a condominium maintained by a homeowners' association.

From 1976 through 1988, state law allowed the solar energy tax credit for personal and commercial premises. The credit was refundable until 1981 and was significantly modified several times. The credit was allowed as a percentage of the purchase and installation costs of solar energy systems on premises owned by the taxpayer. For 1981 and later years, any unused credit could be carried over to succeeding years.

In 1987, the percentage allowed for the solar energy tax credit was 10% of the eligible costs for single-family dwellings, not to exceed a maximum credit of $1,000. For commercial property, the percentage was 25% of the eligible costs. However, only 15% of the eligible costs were allowed in that year for wind energy systems installed on or after January 1, 1986, and on or before June 30, 1987.

OTHER STATES' INFORMATION

Massachusetts: Currently has an energy credit that is equal to 15% of the net expenditures or $1,000, whichever is less.

New York: For personal income tax (PIT) only, New York allows a credit for solar generating equipment equal to 25% of certain solar generating expenditures. The credit is capped at $3,700 per system.

Michigan: Does not allow an energy-related credit, but exempts the value of energy conservation devices from the local property tax.

Oregon: Currently has two energy credits, a PIT consumer energy purchases credit and a corporate tax credit for the costs of energy projects. The consumer energy purchases credit allows various credits ranging from $50 to $1,500 for consumer purchases of certain items. The corporate credit for the costs of energy projects is a credit equal to 35% of the incremental costs of the project involving energy conservation and other related projects.

The laws of these states were reviewed because their tax laws are similar to California's income tax laws.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT

Tax Revenue Estimate

Based on the discussion below, the revenue loss from this bill is as follows:

Revenue Impact of AB872 For Taxable Years Beginning 1/1/2001 Assumed Enactment After 6/30/01 Fiscal Year Impact (In Millions)		
2001-2	2002-3	2003-4
-$145	-$225	-$270

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this proposal.

Revenue Discussion

The impact of this bill would depend upon the number of taxpayers and businesses incurring qualifying solar energy expenses and the average credit applied against tax liabilities.

This revenue estimate includes the impact of a new incentive program approved by the California Public Utilities Commission that would provide customers with systems between 30kW and 1 MW, which use photovoltaics, fuel cells with renewable fuel or wind turbines, to receive a $4.50 per watt payment up to a maximum of 50 percent of the project costs. Based on this new incentive program, an average cost of approximately $111,000 was used (net of special rebate programs) for mid-size systems between 10 kilowatts and 200 kilowatts.

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