

# SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Daucher Analyst: Shona Adams-Mirrione Bill Number: AB 94

Related Bills: See Prior Analysis Telephone: 845-3380 Amended Date: 05-31-2001

Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Emission Reduction Credits Purchased For Electrical Generating Facilities Credit

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended \_\_\_\_\_.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as amended February 13, 2001.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO NEUTRAL.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED February 13, 2001, STILL APPLIES.

OTHER - See comments below.

## SUMMARY

This bill would create a 100% tax credit for the purchase of emission reduction credits for an electrical generating facility.

The analysis does not address the bill's Government Code provisions as they do not impact the department or state income tax revenue.

## SUMMARY OF AMENDMENTS

The May 31, 2001, amendments made a technical change to the tax credit, added the Government Code provisions, and eliminated the language making the bill a tax levy. Except for the change to the effective date, the department's analysis of the bill as amended February 13, 2001, still applies. The following implementation considerations still apply and are included below for convenience.

## EFFECTIVE/OPERATIVE DATE

This bill would be effective on January 1, 2002, and the credit would be operative for taxable years beginning on or after that date.

Board Position:

S       NA       NP  
 SA       O       NAR  
 N       OUA       PENDING

Legislative Director

Date

Brian Putler

06/11/01

## **POSITION**

Neutral.

On May 2, 2001, the Franchise Tax Board voted 2-0 to take a neutral position on this bill, with Annette Porini, on behalf of Member B. Timothy Gage, abstaining.

## **IMPLEMENTATION CONSIDERATIONS**

The bill does not define "emission reduction credits" or "electrical generating facility." The absence of definitions to clarify these terms could lead to disputes with taxpayers and would complicate the administration of the credit.

This bill uses a sales and use tax term, "qualified person", rather than the income tax term, "qualified taxpayer", in the Personal Income Tax Law portion of this credit. It would be preferable to change the reference from qualified person to qualified taxpayer.

The bill does not specify a method for the department to verify that the electricity generated by the facility was first offered to purchasers within California before it was offered to purchasers outside this state.

This bill does not limit the number of years for the carryover period. The department would be required to retain the carryover on the tax forms indefinitely because an unlimited credit carryover period is allowed. Recent credits have been enacted with a carryover period limitation since experience shows credits are typically used within eight years of being earned.

## **LEGISLATIVE STAFF CONTACT**

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