ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author:	Pacheco	Analyst:	Roger Lackey	Bill Number:	AB 15XX
Related Bills:	See Legislative History	Telephone:	845-3627	Introduced Date:	05-16-2001
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: Energy Conservation Credit

SUMMARY

This bill would allow an energy conservation measure credit.

PURPOSE OF THE BILL

The purpose of this bill is to promote energy conservation and improve energy efficiency.

EFFECTIVE/OPERATIVE DATE

As a tax levy, this bill would be effective immediately and operative for taxable years beginning on or after January 1, 2001.

POSITION

Pending.

ANALYSIS

FEDERAL/STATE LAW

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

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 must be sold to an unrelated person during the taxable year. Qualified renewable energy resources include wind, closed-loop biomass, and poultry waste.

Board Position:			Department Director	Date
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Prior federal law allowed a credit equal to 15%, up to a maximum total credit of $300, for the purchase and installation of energy-saving components in an individual's residence. The qualifying expenditures included such items as:

- energy efficient furnace burners and electrical or mechanical furnace ignition systems; and
- storm or thermal windows or doors, and caulking or weather-stripping of exterior doors or windows.

A separate federal credit equal to 40% of the costs, up to a maximum total credit of $4,000, was allowed for tax years 1979-1986. That credit was based on the purchase and installation of renewable energy equipment, such as solar energy systems, and wind and geothermal energy equipment. The renewable energy equipment was required to be installed in an individual's primary residence located in the United States. The equipment must have been new when installed and have had an expected useful life of at least five years.

Prior state law allowed a credit equal to a percentage of the cost of energy conservation measures. The credit was changed a number of times during its lifetime and was available for tax years 1977-1986. In later years, the credit for residential property was 40% of allowable costs for tax years 1981-1983 and 35% for tax years 1984-86. Energy measures that qualified for the credit were similar to those in the federal credit.

If the federal credit was allowed on the same costs, the state credit was reduced by the amount of the federal credit. For residential properties, the combined federal and state credits could not exceed 40% of cost. For nonresidential properties, the combined federal and state credits could not exceed 40% of cost except where the cost exceeded $6,000. In this case, the federal credit was limited to 25% of costs, and the state credit was reduced by the amount of the federal credit. The state credit was limited to a maximum of $1,500. In addition, the state credit could not be claimed if the amount of state credit for any given year would have been less than $10.

The energy conservation credit could not be claimed for costs on which the solar energy credit was also claimed.

Current state law does not provide a credit for energy conservation measures.

<u>THIS BILL</u>

This bill would allow a credit for the qualified cost of an energy conservation measure installed on qualified property that is placed in service in this state. The credit would be equal to the lesser of $1,000 or 100% of the cost of the energy conservation measure.

This bill would:

- Require that the energy conversation measures must be installed on property located and used in California.

- Define energy conservation measures and clarify that the measures must be new, not used, energy conservation measures.

- Require the State Energy Resources Conservation Commission to certify each energy conservation measure. In addition, the commission would be required to adopt regulations that establish standards for the energy conservation measures.

- Require the taxpayer to obtain and retain certification for energy conservation measures to be eligible for the credit.

- Define qualified taxpayer, qualified property, and qualified cost.

- Include certain specified costs of leasing energy conservation measures as an eligible cost.

- Require that the energy conservation measures must be installed and placed in service on existing property and not in connection with the construction of property or in connection with an increase in square footage.

- Reduce the eligible cost used to calculate the credit by any state or federal grants received.

- Allow the credit to be carried forward for a period of eight years.

- Not allow any other deduction for the costs on which the credit was based.

- Repeal the provision on December 1, 2004.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would not significantly impact the department's programs and operations.

LEGISLATIVE HISTORY

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) is identical to this bill. ABX 15 died upon the close of the first special session.

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.

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.

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.

FISCAL IMPACT

Implementing this bill would not significantly impact the department's programs and operations.

ECONOMIC IMPACT

Tax Revenue Estimate

This bill would potentially result in very significant revenue losses under the PIT and B&CT Laws, possibly on the order of $500 million annually beginning in 2001-02.

Tax Revenue Discussion

Energy conservation measures and costs that may be claimed as credits by taxpayers are extremely broad under the bill. Examples of such measures can range in cost from a few dollars for weather stripping to several thousand dollars for a new energy-efficient heating and cooling systems in a home to hundreds of thousands of dollars or more by a business in a commercial facility.

There are roughly 11.6 million residential units and nearly 425,000 non-governmental and non-tax-exempt commercial buildings in California. If one in ten taxpayers who own the roughly 12 million structures incur qualifying costs of $500 on average, credits generated would total $600 million. Qualified taxpayers would need to obtain written certification that each measure is installed at the taxpayer's qualified property and would improve the energy efficiency of that property.

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