ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author:	Plescia	Analyst:	Angela Raygoza	Bill Number:	AB 1912
Related Bills:	See Legislative History	Telephone:	845-7814	Introduced Date:	February 8, 2008
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: Wildfire Risk Reduction Improvement Costs Credit

SUMMARY

This bill would provide a tax credit for modifications to a taxpayer's property to reduce potential wildfire risk.

PURPOSE OF THE BILL

According to the author's office, the purpose of this bill is to encourage taxpayers with property in the state of California to protect their homes from wildfires.

EFFECTIVE/OPERATIVE DATE

As a tax levy, this bill would be effective immediately upon enactment and specifically operative for taxable years beginning on or after January 1, 2009, and before January 1, 2013.

POSITION

Pending.

ANALYSIS

FEDERAL/STATE LAW

Current federal and state tax laws provide various tax credits designed to provide tax relief for taxpayers that incur certain expenses (e.g., child and dependent care credits) or to influence business practices and decisions or to achieve social goals.

Current state law requires landowners in mountainous, forest, brush, and grass-covered lands to maintain a 30-foot firebreak around homes, buildings, and structures. In addition, current state law requires that around and adjacent to an occupied dwelling or occupied structure *additional* fire protection or firebreaks out 100 feet from the dwelling or structure or to the property line be maintained. Greater distances may be required by local ordinance, rule, or regulation.

Board Position:			Department Director	Date
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THIS BILL

For each taxable year beginning on or after January 1, 2009, and before January 1, 2013, this bill would provide a credit in an amount equal to 15 percent of the cost paid or incurred by a taxpayer, for the purchase and installation of any wildfire risk reduction improvement installed on existing property in this state. This bill would apply to the Personal Income Tax Law (PITL) and the Corporation Tax Law (CTL). This credit would be calculated by first deducting the value of any other municipally, state or federally sponsored financial incentives from the costs paid or incurred by the taxpayer.

This bill would define "wildfire risk reduction improvement" as modifications to existing property that reduce the risk of a wildfire. The following list includes, but is not limited to, the improvements allowed under this credit:

- Fire-resistive materials or noncombustible roofing material
- Siding or walls
- Decking materials
- Windows
- Boxed eaves
- Attic vents

This bill specifies that a taxpayer would be unable to receive a credit under this section if the improvements used are for purposes other than reducing the risk of wildfires on the taxpayer's property.

This bill would deny any other credits or deductions for the same costs for which a credit is provided under this bill.

This bill would require the basis of the wildfire risk improvement reduce the credit amount allowed under this provision.

This bill specifies that any credit allocated to a pass-through entity would be allowed to that entity and pass through to the partners, members, or shareholders.

This bill would allow unused credits to be carried over for eight years.

This credit would be repealed as of December 1, 2013.

IMPLEMENTATION CONSIDERATIONS

The department has identified the following implementation concerns. Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

This bill uses undefined terms such as, "sponsored financial incentives," "existing property," "fire-resistive materials," "actual use," and "structure." The absence of definitions to clarify these terms could lead to disputes with taxpayers and would complicate the administration of this credit.

This bill specifies that a taxpayer can receive the “wildfire risk reduction improvement” credit only if the modifications made to the property are to reduce the vulnerability of fire damage. It is unclear how the department would determine that the improvements made to the existing property are home improvements instead of reducing the risk of fire damage. Typically, credits involving areas for which the department lacks expertise are determined by another agency or agencies that possess the relevant expertise. The language would specify the responsibilities of both the certifying agency and the taxpayer.

TECHNICAL CONSIDERATIONS

Amendments 1-4 are provided to correct technical errors.

LEGISLATIVE HISTORY

AB 424 (Gaines 2007/2008) would provide a tax credit for 25 percent of the costs paid or incurred by a taxpayer to create a defensible space. This bill failed to pass the Senate Revenue and Taxation Committee.

OTHER STATES’ INFORMATION

The states surveyed include *Florida, Illinois, Massachusetts, Michigan, Minnesota,* and *New York.* These states were selected due to their similarities to California's economy, business entity types, and tax laws. These states do not have a credit comparable to the credit this bill would allow.

FISCAL IMPACT

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

ECONOMIC IMPACT

Revenue Estimate

This proposal would result in the following annual revenue losses:

Estimated Revenue Impact of AB1912 Effective for Tax Years BOA January 1, 2009 ($ in Millions)		
2008-09	2009-10	2010-11
-$44	-$128	-$173

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill.

Revenue Discussion

The revenue impact of this bill is dependent upon the number of taxpayers in California that incur qualified improvement costs, the amount of such costs, and the amount of credits that can be applied to reduce tax liabilities.

The 2006 California Statistical Abstract indicates there are 9.5 million residential properties in California. Over the 4 years the credit is available, if 5% each year, or 475,000 (9.5 million x 5% = 475,000) of residential property owners incur on average $10,000 in qualified costs the aggregate amount of credits would total approximately $715 million ($10,000 costs x 15% credit = $1,500 tax credit x 475,000 properties ≈ $715 million).

U.S. Census data indicates California commercial properties, on average, incur expenses for improvements at the rate of approximately 87% of residential improvements. Over the 4-year period of the credit, applying the 87% to the estimated $715 million in eligible residential credits would yield approximately $622 million in eligible credits for commercial properties ($715 million eligible residential credits x 87% ≈ $622 million).

It is assumed that approximately $1.3 billion ($715 million + $622 million) in credits would be generated evenly over the 4-year period resulting in potential annual credits generated of approximately $334 million ($1.3 billion ÷ 4). Based on average taxpayer liability, it is assumed one-third of the credits are applied against tax liabilities in the year generated, resulting in potential annual loss of $110 million ($334 million x 33% ≈ $110 million). It is assumed that unused credits would be carried over and utilized over a five-year period.

It is estimated that 40% of the 2009 tax year credits will result in a revenue loss for fiscal year 2008-09 of $44 million ($110 million x 40%) by reducing estimated payments. In each successive fiscal year, applied credits increase due to the build up of carryover credits. By fiscal year 2012-13, the combination of the annual credits generated and applied carryover credits would result in annual revenue losses of approximately $245 million.

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 1912
As Introduced February 8, 2008

Amendment 1

On page 2, line 25, 26 and 30, strike "passthrough" and add:

pass-through

Amendment 2

On page 3, line 3, strike "\tax" and add:

"tax"

Amendment 3

On page 3, line 9, strike "(1)"

Amendment 4

On page 3, line 25, 26, and 30 strike "passthrough" and add:

pass-through