

SUMMARY ANALYSIS OF AMENDED BILL

Author: Ashburn Analyst: Jahna Alvarado Bill Number: SB 1073
 Related Bills: See Prior Analysis Telephone: 845-5683 Amended Date: May 3, 2010
 Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Research Expense Credit/20 Percent Of Qualified Green Technology & Renewable Energy Research And Development Costs

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 introduced February 17, 2010.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED February 17, 2010, STILL APPLIES.

OTHER – See comments below.

SUMMARY

This bill would increase the research credit for green technology and renewable energy research, as specified.

SUMMARY OF AMENDMENTS

The May 3, 2010, amendments would delay the allowance of any new credit and the portion of any additional credit provided by this bill until taxable years beginning on or after January 1, 2014, as specified.

Except for the "This Bill," "Implementation Considerations," and "Economic Impact" sections, the department's analysis of this bill as introduced February 17, 2010, still applies.

The implementation concerns previously identified remain and are restated in this analysis.

Board Position:	Asst. Legislative Director	Date
<input type="checkbox"/> S <input type="checkbox"/> NA <input type="checkbox"/> NP <input type="checkbox"/> SA <input type="checkbox"/> O <input type="checkbox"/> NAR <input type="checkbox"/> N <input type="checkbox"/> OUA <input checked="" type="checkbox"/> PENDING	Patrice Gau-Johnson	05/12/10

THIS BILL

This bill would, for taxable years beginning on or after January 1, 2010, increase the percentage of increased qualified research expenses included in the research credit from 15 percent to 20 percent for "green technology and renewable energy research and development."

This bill would define "green technology and renewable energy research and development" as research and development that is any of the following:

- Consistent with meeting the goals and objectives of compliance with greenhouse gas emissions standards as set forth in the Health and Safety Code;
- Promotes the reduction of wasteful, inefficient, unnecessary, or uneconomic uses of energy;
- Provides for the utilization of cost-effective water use efficiency practices to curtail the waste of water and ensure that water use does not exceed reasonable needs;
- Provides for the utilization of recycled or reusable materials in the manufacturing process;
- Provides for the application of cogeneration technology, as defined in the Public Resources Code; or
- Provides for the conservation of energy or the use of solar, biomass, wind, geothermal, hydroelectricity under 30 megawatts, or any other source of energy, the efficient use of which will reduce the use of fossil and nuclear fuels.

For taxable years beginning on or after January 1, 2010, and before January 1, 2014, any new credit, and the portion of any additional credit, provided by this bill would only be allowed as a credit for the first taxable year beginning on or after January 1, 2014.

IMPLEMENTATION CONSIDERATIONS

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

Department staff does not have expertise in "green technology and renewable energy research and development." Typically, credits involving areas for which the department lacks expertise are certified by another agency or agencies that possess the relevant expertise. For example, the State Air Resources Board could serve as the certifying agency for research that is "consistent with meeting the goals and objectives of compliance with greenhouse gas emissions standards as set forth in the Health and Safety Code."

The bill uses the following undefined terms: "consistent," "promotes," and "provides". The absence of definitions to clarify these terms could lead to disputes with taxpayers and would complicate the administration of this credit.

This bill would limit the use of the credit generated in taxable years beginning on or after January 1, 2010, and before January 1, 2014, to the first taxable year beginning on or after January 1, 2014. If it is the author's intent to allow any excess credit to be carried forward, it is recommended that this bill be amended to eliminate the word "only."

TECHNICAL CONSIDERATIONS

For purposes of clarity and consistency with existing law, it is suggested that the following changes be made: page 4, line 14, and page 8, line 23, between "the" and "act" insert "amendments made by the".

ECONOMIC IMPACT

Revenue Estimate

The revenue impact of this bill is estimated to be as shown in the following table:

Estimated Revenue Impact of SB1073 Research and Development Credit for Green Technology and Renewable Energy Activities. Operative for Taxable Years Beginning On or After January 1, 2010 Enactment After September 30, 2010 (\$ in Millions)				
2010-11	2011-12	2012-13	2013-14	2014-15
0	0	0	-\$150	-\$225

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

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