Franchise Tax Board

# ANALYSIS OF AMENDED BILL

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| Author: | Block | Analyst: | Diane Deatherage | Bill Number: | SB 578 |
| Related Bills: | None | Telephone: | 845-4783 | Amended Date: | April 13, 2015 |
| | | Attorney: | Bruce Langston | Sponsor | |

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| **SUBJECT:** | Electric Vehicle Charging Station Credit |

## SUMMARY

This bill would establish an income tax credit, under the Personal Income Tax Law (PITL) and the Corporation Tax Law (CTL), for purchasing an electric vehicle charging station (charging station).

## RECOMMENDATION

No position.

### Summary of Amendments

The April 13, 2015, amendments removed legislative intent provisions related to charging stations, and replaced them with the provisions discussed in this analysis. This is the department's first analysis of the bill.

## REASON FOR THE BILL

The reason for the bill is to encourage businesses to help meet the increasing demand for charging stations by providing employers with tax credits that would also help employers, employees, our green economy and the state's environment. Ensuring access to publicly accessible charging stations will help motivate Californians to purchase electric vehicles, thus helping to meet the state's goal of one million zero-emission vehicles while reducing greenhouse gas emissions.

## EFFECTIVE/OPERATIVE DATE

As a tax levy, this bill would be effective upon enactment and specifically operative for taxable years beginning on or after January 1, 2016, for property placed in service in California on or after January 1, 2016.

## FEDERAL/STATE LAW

Current state and federal laws generally allow taxpayers engaged in a trade or business to deduct all expenses that are considered ordinary and necessary in conducting that trade or business.

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Federal law provides a credit for alternative fuel vehicle refueling property that includes, but is not limited to, charging stations for electric vehicles.[1] This incentive originally expired on December 31, 2013, but was retroactively extended through December 31, 2014.[2]

The federal credit allows a 30 percent credit against income tax for qualified alternative fuel vehicle refueling property brought into service during the taxable year. For business or investment use property (depreciable property), the allowable credit may not exceed $30,000.[3] For consumers who purchase qualified residential fueling equipment, the allowable credit may not exceed $1,000.[4]

Qualified alternative fuel vehicle refueling property is any property (other than a building or its structural components) used for either of the following:

- Storing alternative fuel at the point where the fuel is delivered into the fuel tank of a motor vehicle that is propelled by such; or
- Dispensing alternative fuel at such point into the fuel tank of a motor vehicle that is propelled by such fuel.

In addition, the following requirements must be met to qualify for the credit:

- The refueling property is placed in service during the tax year;
- The original use of the property begins with the taxpayer;
- The property is not used predominantly outside the United States; and
- If the property is not business or investment use property, the property must be installed on property used as the taxpayer's main home.

The charging station's cost must first be reduced by any deduction taken for the charging station in accordance with Internal Revenue Code (IRC) section 179.

If the property no longer qualifies for the credit, the credit would be subject to recapture.

Current state law lacks a comparable credit to the one that would be created by this bill.

[1] The federal credit provides that qualified alternative fuels include natural gas, liquefied petroleum gas, hydrogen, non-hydrogen, electricity, E85, or diesel fuel blends containing a minimum of 20 percent biodiesel.
[2] Tax Increase Prevention Act of 2014, Public Law 113-295.
[3] Unused credits that qualify as general business tax credits may be carried backward one year and carried forward 20 years.
[4] IRC section 30C.

**THIS BILL**

For taxable years beginning on or after January 1, 2016, this bill would, under both the PITL and the CTL, provide a taxpayer a tax credit of 30 percent of the cost of purchasing any Level 2 or direct current fast charger electric vehicle charging station, that is of a character subject to an allowance for depreciation, placed in service in California on or after January 1, 2016, not to exceed $30,000 per taxable year.

The FTB would be required to prescribe regulations as necessary to carry out the provisions of the credit.

This credit would be exempt from the recently-enacted tax credit legislation requirements of specified goals, purposes, performance measures, and objectives, as provided under Revenue and Taxation Code section 41.[5]

**IMPLEMENTATION CONSIDERATIONS**

Department staff has identified the following implementation considerations for purposes of a high-level discussion; additional concerns may be identified as the bill moves through the legislative process. Department staff is available to work with the author’s office to resolve these and other concerns that may be identified.

This bill uses terms and phrases that are undefined, i.e., "costs of purchasing," and "Level 2 or direct current fast charger electric vehicle charging station." The absence of definitions to clarify these terms and phrases could lead to disputes between taxpayers and the department and would complicate the administration of this credit.

It is unclear if the $30,000 limit applies to the maximum costs or the maximum credit allowed per taxable year. For administrative ease and taxpayer certainty, the author may wish to amend the bill.

The department lacks expertise on charging stations. Typically, credits involving areas for which the department lacks expertise are certified by another agency or agencies that possess the relevant expertise. The certification language would specify the responsibilities of both the certifying agency and the taxpayer. It is recommended that this bill be amended to include a certifying agency.

[5] Revenue and Taxation Code section 41 requires that tax credits contain specified goals, purposes, and objectives that the tax credit will achieve and detailed performance indicators, including data collection requirements as specified, to measure whether the credit is meeting those goals, purposes, and objectives.

## 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.

Although *Florida, Illinois, Massachusetts* and *Michigan* do not offer a tax credit similar to the credit this bill would allow, *Massachusetts* provides grant funding for public and private fleets to purchase alternative fuel vehicles and infrastructure. The remaining three states offer rebate programs relating to the purchase or lease and installation of electric vehicle supply equipment.

*Minnesota* laws do not provide a credit comparable to the credit that would be allowed by this bill.

*New York* offers a nonrefundable tax credit for alternative fuels vehicle refueling property[6] and electric recharging property[7] that is available only when the property is used in a trade or business located in the state of *New York*. The credit is equal to the lesser of $5,000 or 50 percent of the cost of property. Any unused credit may be carried forward indefinitely.

## FISCAL IMPACT

The department is unable to determine the costs to implement this bill. As the bill moves through the legislative process and the implementation concerns are resolved, costs will be identified and an appropriation will be requested, if necessary.

## ECONOMIC IMPACT

### Revenue Estimate

This bill would result in the following revenue loss:

| Estimated Revenue Impact of SB 578<br>As Amended April 13, 2015<br>Assumed Enactment After June 30, 2015<br>($ in Millions) | | |
|---|---|---|
| 2015-16 | 2016-17 | 2017-18 |
| - $1.3 | - $3.3 | - $3.5 |

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

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6 Alternative fuels vehicle refueling property includes all of the equipment needed to dispense any fuel at least 85 percent of the volume of which consists of one or more of the following: natural gas, liquefied natural gas, liquefied petroleum, or hydrogen.

7 Electric vehicle recharging property includes all of the equipment needed to convey electric power from the electric grid or another power source to an onboard vehicle energy storage system.

**Revenue Discussion**

Based on data from the California Energy Commission, approximately 140,000 qualified charging stations are expected to be installed in the state by 2020. To reach this goal, approximately 23,000 charging stations would need to be installed each year for the next six years. According to media coverage, there are several large-scale projects planned by utility companies, charging companies, and large-scale retailers where the number of charging stations planned to be placed in service[8] would exceed the $30,000 maximum credit[9] generation by a single taxpayer. Using data from public release bulletins, approximately 25 percent of charging stations put into service each year would generate a credit, resulting in an estimated 5,750 charging stations. Public charging stations cost approximately $2,500 and would generate an estimated $4.3 million in credits (5,750 x $2,500 x 30%). It is assumed that 80 percent of the credit would be used in the year generated and the remaining 20 percent would go unused. This results in an estimated $3.4 million revenue loss in 2016. The tax-year estimates are split between personal income taxpayers and corporate taxpayers, converted to fiscal-year estimates, and then rounded to arrive at the estimates shown in the table above.

**SUPPORT/OPPOSITION**

Support: None provided.

Opposition: None provided.

**ARGUMENTS**

Proponents: Some may argue that the bill would assist in conserving fuel and helping the environment by encouraging taxpayers to use electric vehicles.

Opponents: Some may argue that eligibility for the credit is too narrow and should be expanded to more robustly encourage utilization of all types of alternative-fuel vehicles.

**POLICY CONCERNS**

This bill lacks carryover language. As a result, any unused credit would be lost if the taxpayer is unable to use the entire credit amount in the year claimed. The author may wish to add language allowing a limited carryover period.

This bill lacks a sunset date. Sunset dates generally are provided to allow periodic review of the effectiveness of the credit by the Legislature.

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[8] The estimate assumes that the credit would be allowed in the taxable year in which the charging station is placed in service.
[9] The estimate assumes that the implementation concern is resolved clarifying that the $30,000 limitation applies to the maximum credit.

**LEGISLATIVE STAFF CONTACT**

Diane Deatherage
Legislative Analyst, FTB
(916) 845-4783
diane.deatherage@ftb.ca.gov

Jame Eiserman
Revenue Manager, FTB
(916) 845-7484
jame.eiserman@ftb.ca.gov

Gail Hall
Legislative Director, FTB
(916) 845-6333
gail.hall@ftb.ca.gov