Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author:	Chiu	Analyst:	Davi Milam	Bill Number:	AB 2675
Related Bills:	See Legislative History	Telephone:	845-2551	Introduced Date:	February 19, 2016
		Attorney:	Bruce Langston	Sponsor	

SUBJECT: Electric Vehicle Infrastructure Credit

SUMMARY

This bill would, under the Personal Income Tax Law (PITL) and the Corporation Tax Law (CTL), allow a credit for acquiring electric vehicle infrastructure.

This analysis only addresses the provisions of the bill that would impact the department's programs and operations.

RECOMMENDATION

No position.

REASON FOR THE BILL

The reason for the bill is to expand funding for electric vehicle infrastructure, including charging stations, and to encourage use of electric vehicles.

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, 2017, and before January 1, 2020.

FEDERAL/STATE LAW

Federal Law

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 credit is available through December 31, 2016.

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[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.

The federal credit is calculated as 30 percent of qualified alternative fuel vehicle refueling property placed in service during the taxable year. For business or investment use property (depreciable property), the allowable credit may not exceed $30,000.[2] For consumers who purchase qualified residential fueling equipment, the allowable credit may not exceed $1,000.

"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 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 within three full-years of being placed in service, the credit is subject to recapture.

State Law

Existing state law provides various tax credits designed to provide tax relief for taxpayers who incur certain expenses (e.g., child adoption) or to influence behavior, including business practices and decisions (e.g., research credits or economic development area hiring credits). These credits generally are designed to provide incentives for taxpayers to perform various actions or activities that they may not otherwise undertake.

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

[2] Unused credits that qualify as general business tax credits may be carried backward one year and carried forward 20 years.

THIS BILL

For each taxable year beginning on or after January 1, 2017, and before January 1, 2020, this bill would, under both the PITL and the CTL, provide a taxpayer a tax credit of 10 percent of the amount paid or incurred for the acquisition of electric vehicle infrastructure during the taxable year, not to exceed $2,500.

This bill would define the phrase “electric vehicle infrastructure” by referencing the definition in Revenue and Taxation Code section 6012.10, added by this bill, to mean “structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations, battery exchange stations, and rapid charging stations.

Any unused credits could be carried over for four years or until exhausted.

This bill would exempt the Franchise Tax Board (FTB) from the Administrative Procedures Act (APA) when the FTB is prescribing rules, guidelines, or procedures necessary or appropriate to carry out the bill's purpose.

This bill would provide that Revenue and Taxation Code (R&TC) section 41 would not apply to the credit that would be allowed by this bill.[3]

The credit would remain in effect only until December 1, 2020, and as of that date would be repealed.

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.

The department lacks expertise on what constitutes electric vehicle infrastructure. 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.

It is unclear whether the $2,500 cap would apply to the amount of credit per taxable year or the costs eligible for credit per taxable year. Additionally, because each individual included in a jointly filed return meets the definition of “taxpayer”, the maximum credit on a jointly filed return would be $5,000. If this is not the author’s intent, the bill should be amended.

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[3] R&TC section 41 requires legislation that would create a new tax credit to include specific goals, purposes, objectives, and performance measures to allow the Legislature to evaluate the credit's effectiveness.

This bill uses the undefined term “acquisition.” It is unclear whether acquisition would require the purchase of the electric vehicle infrastructure, such as charging stations, or whether amounts paid or incurred for operating lease payments of such equipment also would qualify. To avoid disputes between taxpayers and the department and for ease of administration, the bill should be amended.

The bill is silent on whether the electric vehicle infrastructure must be placed in service or for how long it must be used for the taxpayer to receive the credit. Further, it is unclear if the credit is allowed in the taxable year in which the cost was paid or the taxable year in which the property is placed in service.

The definition of “electric vehicle infrastructure” could be broadly interpreted to include items such as tires, or a garage. Additionally, it is unclear whether the author’s intent is to limit the credit to only battery charging stations, exchanges, and rapid charging stations or to allow qualified alternative fuel vehicle refueling property. It is recommended that the bill be amended to clearly express the author’s intent.

LEGISLATIVE HISTORY

AB 2673 (Harper, 2015/2016) would allow a credit based on sales and use tax paid for hydrogen station fueling equipment. AB 2673 is pending before the Assembly Revenue and Taxation Committee.

SB 578 (Block, 2015/2016) would have allowed a credit for purchasing an electric vehicle charging station. SB 578 failed to pass out of the Senate Appropriations 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.

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[4] and electric recharging property[5] 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 AB 2675 As Introduced February 19, 2016 Assumed Enactment After June 30, 2016 ($ in Millions)		
2016-17	2017-18	2018-19
- $1.1	- $2.3	- $2.6

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

Revenue Discussion

Based on data from the California Energy Commission, California plans to install approximately 140,000 qualified charging stations by 2020. According to media coverage, there are several large scale projects planned by utility companies, charging companies, and large scale retailers where the number of stations planned to be put into service[6] would exceed the $2,500 maximum credit[7] generation by a single taxpayer. According to alternative fuel media outlets, 1,200 work and public charging stations were built in California during calendar year 2015. As a result, it is

[4] 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.
[5] 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.
[6] The estimate assumes that the credit would be allowed in the taxable year in which the charging station is placed in service.
[7] The estimate assumes that the implementation concern is resolved clarifying that the $2,500 limitation applies to the maximum credit and limited to the cost of qualified charging stations.

assumed that approximately 1,200 charging stations would qualify for the credit each year the credit is available. The average commercial charger cost is $2,500. Applying the 10 percent rate would generate $300,000 in credits (1,200 x $2,500 x 10%).

Additionally, electric vehicle sales data was used to estimate the amount of credit for individuals for home charging stations. Approximately 55,000 electric vehicles are sold to Californians each year. According to the California Energy Commission, 60 percent of electric vehicle buyers choose to install level 2 chargers at their homes. The average residential charger costs $650. Applying the 10 percent rate generates $2.1 million in credits (55,000 x 60% x $650 x 10%).

The total estimated revenue loss for 2017 is $2.4 million. It is assumed that 80 percent of the credit would be used in the year generated and the remaining 20 percent would be used over the next 4 years.

The tax year estimate is converted to fiscal year estimates, and then rounded to arrive at the amounts shown in the table above.

SUPPORT/OPPOSITION

Support: None provided.

Opposition: None provided.

ARGUMENTS

Proponents: Some may say that the bill would expand the state's electric vehicle infrastructure, thereby encouraging the expansion of electric vehicle use as well as reducing carbon emissions.

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

POLICY CONCERNS

Because this bill fails to specify otherwise, the credit would be available for the acquisition of electric vehicle infrastructure located outside of the state.

This bill would allow taxpayers in certain circumstances to claim multiple tax benefits for the same acquisition costs.

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