Franchise Tax Board **ANALYSIS OF AMENDED BILL**

Author:	Calderon	Analyst:	Funmi Obatolu	Bill Number:	AB 1341
Related Bills:	See Legislative History	Telephone:	845-5845	Amended Date	March 29, 2017
		Attorney:	Bruce Langston	Sponsor:	

SUBJECT: Zero-Emission & Near-Zero-Emission Vehicle Tax Credit

SUMMARY

Among other things, this bill would, under the Personal Income Tax Law (PITL), allow a tax credit for the purchase of a new near-zero-emission or zero-emission vehicle.

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

RECOMMENDATION – NO POSITION

Summary of Amendments

The March 29, 2017, amendments removed the bill's provisions that would have allowed tax benefits for the purchase of a new or used near-zero-emission or zero-emission vehicle and replaced them with the provisions discussed below. As a result of the amendments, the department's analysis of the bill as introduced February 17, 2017, no longer applies.

REASON FOR THE BILL

The reason for the bill is to promote near-zero-emission and zero-emission vehicle deployment in disadvantaged California communities, to drastically increase the use of those vehicles, and to meet specified goals established by the Governor and the Legislature.

EFFECTIVE/OPERATIVE DATE

The provision of this bill relating to the tax credit would be effective January 1, 2018, and specifically operative for taxable years beginning on or after January 1, 2018, and before January 1, 2026.

PROGRAM BACKGROUND

The Center for Sustainable Energy administers the Clean Vehicle Rebate Program (Rebate Program)[1] throughout the state for the California Air Resources Board.

---

[1]This program was created in 2014 with the enactment of the Charge Ahead California Initiative (Health and Safety Code sections 44258 - 44258.5).

The Rebate Program promotes clean vehicle adoption by offering rebates of up to $6,500 for the purchase or lease of new, eligible zero-emission vehicles, including electric, plug-in hybrid electric, and fuel cell vehicles.

The Air Resources Board recently approved a funding plan that included an income cap for higher-income consumers and increased rebate levels for low and moderate-income consumers participating in the Rebate Program, effective for rebate applications for vehicles purchased or leased on or after March 29, 2016.

FEDERAL/STATE LAW

Existing state and federal laws provide 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.

Credits for Plug-in Electric Drive Motor Vehicles

Federal law provides a credit for Qualified Plug-in Electric Drive Motor Vehicles, including passenger vehicles and light trucks.

The credit is equal to $2,500, plus, for a vehicle which draws propulsion energy from a battery with at least 5 kilowatt hours of capacity, $417, plus an additional $417 for each kilowatt hour of battery capacity in excess of 5 kilowatt hours. The total amount of the credit allowed for a vehicle is limited to $7,500.

The vehicle must be acquired by a taxpayer for use or lease,[2] and not for resale. Additionally, the original use of the vehicle must commence with the taxpayer and the vehicle must be used predominantly in the United States. For purposes of the credit, a vehicle is not considered acquired prior to the time when title to the vehicle passes to the taxpayer under state law. Current state law lacks a credit comparable to the credit this bill would create.

THIS BILL

Under the PITL, for each taxable year beginning on or after January 1, 2018, and before January 1, 2026, a qualified taxpayer would be allowed a tax credit in an amount equal to the following amounts for new vehicles:

- $1,500 for plug-in hybrid electric vehicles with an electric range of more than 20 miles.
- $2,500 for battery electric vehicles.
- $5,000 for hydrogen fuel cell electric vehicles.

---

[2] In the case of an operating lease where the owner-lessor is treated as the tax owner of the vehicle, only the lessor may claim the credit.

A qualified taxpayer who is a low-income purchaser, as defined, would be allowed an additional credit of $500 for each vehicle type above.

In lieu of claiming the credit against the "net tax", a qualified taxpayer purchasing a near-zero-emission or a zero-emission vehicle may assign the tax credit to a financing entity at the time of purchase by entering the following information into an election statement:

1. The vehicle identification number of the vehicle eligible for the credit.
2. An affirmation that all the following requirements have been met:
    - The vehicle purchased is a “Near-zero-emission or “Zero-emission” vehicle, as defined.
    - The individual or individuals purchasing the vehicle is a qualified taxpayer, as defined. The qualified taxpayer assigns the tax credit to the financing entity and forfeits the right to claim the tax credit on their tax return in exchange for good and valuable consideration.

The financing entity would be required to compensate the qualified taxpayer for the full nominal value of the tax credit. Such compensation would be considered a refund of state taxes and not considered as income to the qualified taxpayer. The financing entity would be required to electronically submit a report containing the information in the election statement to the Franchise Tax Board within 30 days of the purchase of a near-zero-emission or zero-emission vehicle.

This bill would define the following:

"Qualified taxpayer" means an individual or individuals who meet the income eligibility requirements specified by the State Air Resources Board[3] and who purchased a near-zero-emission or zero-emission vehicle during the taxable year.

“Low-income purchaser” means an individual or individuals whose household income does not exceed 80 percent of the median income of the county in which they reside as determined by the United States Department of Housing and Urban Development.

"Near-zero-emission vehicle" means a vehicle that utilizes zero-emission technologies, enables technologies that provide a pathway to zero-emissions operations, or incorporates other technologies that significantly reduce criteria pollutants, toxic air contaminants, and greenhouse gas emissions, as defined by the State Air Resources Board in consultation with the State Energy Resources Conservation and Development Commission consistent with meeting the state's mid- and long-term air quality standards and climate goals.

[3] Eligibility requirements pursuant to Health and Safety Code section 44258.4(c)(3)(B).

"Zero-emission vehicle" means a vehicle that produces no emissions of criteria pollutants, toxic air contaminants, and greenhouse gases when stationary or operating, as determined by the State Air Resources Board.

The bill would allow any unused credit to be carried forward for seven years.

The bill contains language that it is the intent of the Legislature to enact legislation to provide that the credit would be refundable, upon appropriation, if the amount of the credit exceeds the taxpayer's net tax, in lieu of the credit carry forward.

The credit would be repealed by its own terms on December 1, 2026.

IMPLEMENTATION CONSIDERATIONS

Department staff has identified the following implementation considerations for purposes of a high-level discussion; additional considerations 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 considerations that may be identified.

This bill uses terms and phrases that are undefined, i.e., "plug-in hybrid vehicles," "battery electric vehicles," "hydrogen fuel cell electric vehicles," financing entity," "election statement," "good and valuable consideration." The absence of definitions to clarify these terms could lead to disputes with taxpayers and would complicate the administration of this bill. For clarity and ease of administration, it is recommended that the bill be amended.

The definition of a "Low-income purchaser" would include an individual or individuals whose household income does not exceed 80 percent of the median income of the county in which the individual or individuals reside. Household income is not a figure that appears on federal or state tax returns. To avoid confusion and for ease of administration, the author may want to consider replacing the reference to household income with a reference to Adjusted Gross Income (AGI), and specifying the years the AGI limitation would apply.

The department lacks expertise in electric, near-zero emission, and zero-emission vehicle technology. 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.

This bill lacks administrative details necessary to implement the bill and determine its impacts to the department's systems, forms, and processes. The bill is silent or unclear on the following issues:

- It is unclear whether lease transactions would be eligible for the tax benefits this bill would allow.
- Because the bill fails to specify otherwise, no credit would be allowed on the purchase of a new near-zero-emission or zero-emission vehicle if the vehicle utilized technology other than the specified electric technologies (plug-in hybrid electric, as specified, battery electric, or hydrogen fuel cell electric).

- Who would be responsible for developing the election statement? What specific information would be required on the election statement? When would the election statement be available?
- The bill is silent on a mechanism as to how to allow a “financing entity” to utilize assigned tax credits. Further, it is unclear that any entity other than an individual that is a financing entity would be eligible to use assigned tax credits.
- The compensation paid a qualified taxpayer in exchange for the assignment of the credit would be treated as a refund of state taxes that could be subject to federal income tax.

LEGISLATIVE HISTORY

AB 1710 (Calderon, 2015/2016) would have allowed a tax credit or a deduction for purchasing a near-zero-emission or zero-emission vehicle. AB 1710 failed to pass out of the Assembly by the constitutional deadline.

AB 998 (Kelley, 2001/2002) would have allowed a credit of 30 percent of the purchase price of a new zero-emission Neighborhood Electric Vehicle. AB 998 failed to pass out of the Assembly by the constitutional deadline.

SB 1726 (Burton, 1999/2000) would have allowed a credit of up to $3,000 for each zero-emission vehicle leased or purchased. SB 1726 failed to pass out of the Senate Revenue and Taxation Committee.

OTHER STATES’ INFORMATION

The states surveyed include *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.

None of these states provide a credit or deduction comparable to those proposed by this bill.

FISCAL IMPACT

The department’s costs to implement this bill have yet to be determined. 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 1341 As Amended March 29, 2017 Assumed Enactment After June 30, 2017 ($ in Millions)		
2017-18	2018-19	2019-20
- $65	- $130	- $160

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 available electric vehicles sales data, it is estimated that approximately 90,000 qualified new vehicles would be sold in 2018. Approximately 85 percent, or 75,000, would be purchased by taxpayers who have taxable income.

The total credit generated from the purchase of qualified new vehicles is estimated to be $185 million in taxable year 2018. Approximately $10 million of this amount would be attributed to the additional $500 credit allowed for a low-income purchasers. It is assumed that 60 percent of the credit will be claimed in the year generated and the remaining 40 percent would be used over the next 7 years. This results in an estimated revenue loss of $110 million in taxable year 2018.

The estimate was then adjusted to reflect changes in the economy over time. The tax-year estimates were converted to fiscal-year estimates, and then rounded to arrive at the estimates shown in the above table.

SUPPORT/OPPOSITION

Support: None provided.

Opposition: None provided.

ARGUMENTS

Proponents: Some may argue that the bill would assist in reducing pollution in California by encouraging taxpayers to purchase near-zero-emission or zero-emission vehicles.

Opponents: Some may argue that air pollution is a critical state interest and should be more robustly encouraged by expanding eligibility for the tax benefits this bill would create.

POLICY CONCERNS

This bill would create differences between federal and California tax law, thereby increasing the complexity of California tax return preparation.

The bill lacks a requirement that the vehicle be registered or operated in California.

LEGISLATIVE STAFF CONTACT

Funmi Obatolu	Jame Eiserman	Diane Deatherage
Legislative Analyst, FTB	Revenue Manager, FTB	Legislative Director, FTB
(916) 845-5845	(916) 845-7484	(916) 845-6333
funmi.obatolu@ftb.ca.gov	jame.eiserman@ftb.ca.gov	diane.deatherage@ftb.ca.gov