

## Franchise Tax Board

## ANALYSIS OF ORIGINAL BILL

Author: Aguiar-Curry, et al. Analyst: Davi Milam Bill Number: AB 832  
Related Bills: See Legislative History Telephone: 845-2551 Introduced Date: February 16, 2017  
Attorney: Bruce Langston Sponsor: \_\_\_\_\_

**SUBJECT:** Winter-Flooded Rice Credit

### SUMMARY

This bill would, under the Personal Income Tax Law (PITL), and the Corporation Tax Law (CTL), create the Winter-Flooded Rice Credit.

**RECOMMENDATION - NO POSITION.**

### REASON FOR THE BILL

The reason for the bill is to provide a financial incentive to rice farmers to encourage winter flooding of rice fields, thereby conserving wetland habitats.

### 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, 2018, and before January 1, 2022.

### FEDERAL/STATE LAW

Existing state and federal laws contain provisions specifically relating to farmers and agriculture, including special accounting and inventory methods, certain income deferral conditions, and the deduction of farming expenses.

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.

Current state and federal laws lack a comparable credit to the one that would be created by this bill.

### THIS BILL

For each taxable year beginning on or after January 1, 2018, and before January 1, 2022, this bill would, under the PITL and the CTL, allow a credit in an amount equal to thirty dollars (\$30) per planted acre of winter-flooded rice paid or incurred by a qualified taxpayer to maintain winter-flooded rice during the taxable year.

This bill would define the following terms:

- “Qualified taxpayer” means any taxpayer that grows and maintains rice, including winter-flooded rice, in the Central Valley.
- “Winter-flooded rice” means the intentional flooding of a California rice field that has been farmed to rice at least two of the last three growing seasons and is maintained in a flooded state for at least 70 days between November 1 and February 1 of the following year.

The qualified taxpayer would be required to submit the total acreage used for winter-flooded rice to the Department of Food and Agriculture (DFA) for certification. The DFA would be required to provide a copy of each credit certificate issued to the Franchise Tax Board (FTB).

Unused credits could be carried over to succeeding taxable years until exhausted.

The credit would be repealed by its own terms on December 1, 2022.

## **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 would allow a qualified taxpayer a credit in the amount that would be certified by the DFA. The bill is silent on how and when: (1) a taxpayer would provide the total acreage to the DFA to obtain certification of the credit; and (2) the DFA would be required to provide to the FTB to confirm eligibility for and the amount of the credit. Additionally, the bill is silent on the information that would be required on each credit certificate. To verify that the credit requirements are met, the author may wish to consider amending the bill to require that the certification include the following:

- The taxpayer’s name and property address.
- The taxpayer’s social security number or taxpayer identification number.
- The acreage flooded.
- The date of the certification.

Absent these details, it is unclear that credit certification could be accomplished.

It is unclear in what taxable year the credit would be allowed if the period of required flooding, between November 1 and February 1, spans two taxable years. For clarity and ease of administration, it is recommended that the bill be amended.

## **TECHNICAL CONSIDERATIONS**

The phrase “paid or incurred” on page 3, lines 5 and 32, is unnecessary as the credit is based on a flat rate per acre, rather than an amount paid or incurred, and thus should be deleted.

## LEGISLATIVE HISTORY

Research of California legislation found no prior enacted or proposed legislation similar to the provisions of this bill.

## OTHER STATES' INFORMATION

*Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York* laws do not provide a credit comparable to the credit that would be allowed by this bill. The laws of these states were selected due to their similarities to California's economy, business entity types, and tax laws.

## 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 832 As Introduced on February, 16, 2017 Assumed Enactment After June 30, 2017 (\$ in Millions)		
2017-18	2018-19	2019-20
- \$1.8	- \$7.3	- \$8.9

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 Riceland Waterbird Foundation, it is estimated there would be approximately 310,000 acres of winter-flooded rice acreage in the California Central Valley that would qualify for the credit. It is assumed that 100 percent of the 310,000 acres would receive certification for the credit. Applying a credit rate of \$30 per planted acre, the estimated credit generated would be \$9.3 million in taxable year 2018. It is estimated that 70 percent would be used by corporate taxpayers and 30 percent by personal income taxpayers. It is assumed that 70 percent, or \$6.5 million, of the credit would be used in the year generated and the remaining 30 percent would be used over the next several years.

The tax year estimates are converted to fiscal year estimates, and then rounded to arrive at the amounts reflected in the above table.

## **SUPPORT/OPPOSITION**

Support: The California Rice Commission.

Opposition: None provided.

## **ARGUMENTS**

Proponents: Some may say that this bill would encourage the conservation of wetlands.

Opponents: Some may say that providing a tax incentive to encourage conservation will result in revenue losses, which have to be paid for with higher taxes on others or reductions in services.

## **POLICY CONCERNS**

This bill would allow for an unlimited carryover period. Consequently, the department would be required to retain the carryover on the tax forms indefinitely. Recent credits have been enacted with a carryover period limitation because experience shows credits typically are exhausted within eight years of being earned.

This bill would allow taxpayers in certain circumstances to claim multiple tax benefits as taxpayers could claim both the credit allowed by this bill and a deduction for the cost of water used to flood the fields.

This bill fails to limit the amount of the credit that may be taken. Credits that could potentially be quite costly are sometimes limited either on a per-project or per-taxpayer basis.

## **LEGISLATIVE STAFF CONTACT**

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