STATE OF CALIFORNIA
Franchise Tax Board

Bill Analysis

Author: Horvath

Sponsor:

Bill Number: AB 1873

Related Bills: See Legislative History

Introduced: February 8, 2022

SUBJECT

Electric Vehicle Charging Station Tax Credit

SUMMARY

This bill, under the Personal Income Tax Law (PITL) and the Corporation Tax Law (CTL), would allow a credit equal to 40 percent of the costs paid or incurred by the owners or developers of multifamily residential dwellings for the installation of electric vehicle charging equipment.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

Not applicable.

REASON FOR THE BILL

The reason for this bill is to provide a tax credit to owners and developers of multifamily residential dwellings to offset the costs of installing electric vehicle chargers.

ANALYSIS

This bill, under PITL and CTL, would create a credit equal to 40 percent of the amount paid or incurred in qualified costs by a qualified taxpayer during the taxable year for the installation of Level 2 electric vehicle supply equipment or direct current fast chargers, or both, in a covered multifamily dwelling located in California.

A qualified taxpayer would be allowed a maximum credit for installations during the taxable year of:

- $500 per Level 2 vehicle supply equipment, and
- $2,500 per direct current fast charger.

This bill provides the following definitions:

- "Covered multifamily dwelling" is defined by reference to the Government Code and means both of the following:
    1. Buildings that consist of at least four condominium dwelling units or at least three rental apartment dwelling units if the buildings have at least one elevator. For purposes of this definition, dwelling units within a single structure separated by firewalls do not constitute separate buildings.
    2. The ground floor dwelling units in buildings that consist of at least four condominium dwelling units or at least three rental apartment dwelling units if the buildings do not have an elevator. For purposes of this definition, dwelling units within a single structure separated by firewalls do not constitute separate buildings.
- "Electric vehicle supply equipment" means the conductors, including the underground, grounded, and equipment grounding conductors, and the electric vehicle connectors, attachment plugs, and other fittings, devices, power outlets, or apparatus installed specifically for the purpose of transferring energy between the premises wiring and the electric vehicle.
- "Qualified costs" means the amounts paid or incurred for the acquisition of electric vehicle supply equipment, the installation of an outlet or wiring to the panel, panel upgrades, and labor. "Qualified costs" would not include amounts paid or incurred to the extent of rebates, vouchers, reimbursements, or other financial incentives received by the qualified taxpayer from the Energy Commission, including through the California Electric Vehicle Infrastructure Project (CALeVIP).
- "Qualified taxpayer" means a taxpayer who is the owner or developer of a covered multifamily dwelling in this state. A taxpayer who owns a proportional share of a covered multifamily dwelling in this state may claim the credit in an amount that is proportionate to that taxpayer's share of the qualified costs.

This bill would allow this credit to be carried forward for seven years if necessary, until the credit is exhausted.

This bill would provide that a deduction would not be allowed under this part for amounts taken into account in the calculation of the credit.

This credit would be repealed on December 1, 2030, however, any unused credit would continue to be carried forward until exhausted, or the carryover period has expired.

This bill, for purposes of complying with Section 41 of the Revenue and Taxation Code (RTC), provides specific goals, purposes, and objectives, including, among others:

- It is the intent of the Legislature in providing these tax credits to support transportation electrification by offsetting a part of the installation cost.
- Charging infrastructure is needed to power the vehicles and support the zero-emission vehicle market. As of December 2019, California has 22,233 electric vehicle charging outlets, including 3,355 direct current fast chargers, at over 5,674 public stations throughout the state. The state's goal is to have 1,500,000 zero-emission vehicles on the road and 250,000 charging outlets, including 10,000 direct current fast chargers, as well as 5,000,000 zero-emission vehicles by 2030. The magnitude and speed of effort needed to achieve these goals is unprecedented.
- The tax credits for installation of Level 2 or direct current fast charger electric vehicle supply equipment in a multifamily dwelling, as allowed by this act, will contribute to an increase in installation of charging infrastructure.

Detailed performance indicators for the Legislature to use in determining whether the tax credits allowed by this act meet the goals, purposes, and objectives of these credits are as follows:

- The number of taxpayers claiming the tax credits.
- The ZIP codes in which electric vehicle supply equipment is installed.
- The amount of electric vehicle supply equipment that is installed.

This bill would provide the data collection requirements for the specific goals, purposes, and objectives as:

- The Legislative Analyst's Office (LAO) would be required to review the effectiveness of the tax credits and may request information from the Franchise Tax Board (FTB) and any state governmental entity with authority relating to electric vehicle supply equipment.
- The FTB would be required to provide any data requested by the LAO pursuant to this subdivision. The disclosure provisions of this paragraph would be treated as an exception to Section 19542 of the RTC.

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, 2025, and before January 1, 2030.

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 hiring credits). These credits generally are designed to provide incentives for taxpayers to perform various actions or activities that they may not otherwise undertake.

The federal government previously allowed a credit for qualified alternative fuel vehicle refueling property placed in service during the tax year through 2021, unless extended. The federal credit was broader than the electric vehicle credit proposed by this bill.

Implementation Considerations

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

This bill uses terms that are undefined, e.g., "Level 2" and "direct current fast chargers." The absence of definitions to clarify these terms could lead to disputes with taxpayers and would complicate the administration of this bill. The author may want to amend the bill to define these terms.

Typically, credits involving areas for which the department does not have the 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.

For RTC section 41 compliance, the FTB would be required to provide any data requested by the LAO. The bill does not specify the agency that would collect any or all of the performance indicators noted. For example, FTB would not readily have data on the ZIP codes in which electric vehicle supply equipment is installed, or be able to verify that the equipment was installed. Additionally, the FTB would not have data available on the proposed credit until after July 2027. To ensure that the FTB is able to provide information required by this bill, it is recommended that the bill be amended to clarify the information that FTB would be required to provide to the LAO.

Technical Considerations

Within subdivision (c) of Section 23690, strike out "net tax" in both places, and insert "tax".

The language that would allow the credit to be carried over after it has been repealed is unnecessary because existing state law provides this general rule. An amendment would remove this language.

Policy Considerations

This bill would provide that a deduction would not be allowed for amounts taken into account in the calculation of this credit, but would not limit the number of credits that could be claimed for the same expense. If that is contrary to the author's intent, the bill should be amended.

LEGISLATIVE HISTORY

AB 113 (Horvath, 2021/2022) would have provided, under PITL and CTL, a credit for 40 percent of the costs paid or incurred to the owners or developers of multifamily residential or nonresidential buildings for the installation of electric vehicle charging equipment in new construction, additions, and alterations to existing buildings. AB 113 did not pass by the constitutional deadline.

AB 1341 (Calderon, 2017/2018) would have, under PITL, allowed a qualified taxpayer a credit for the purchase or lease of a new electric vehicle and a deduction for the purchase of a used near-zero or zero-emission vehicle. AB 1341 did not pass by the constitutional deadline.

PROGRAM BACKGROUND

None noted.

FISCAL IMPACT

The department's costs to implement this bill have yet to be determined. As the bill moves through the legislative process, costs will be identified.

ECONOMIC IMPACT

Revenue Estimate

This bill would result in the following revenue loss:

Estimated Revenue Impact of AB 1873 as Introduced on February 8, 2022.
Assumed Enactment after June 30, 2022

($ in Millions)

Fiscal Year	Revenue
2022-2023	N/A
2023-2024	N/A
2024-2025	-$2.8

The estimated revenue loss from this bill would peak in fiscal year 2028-2029 at $23 million.

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill or for the net final payment method of accrual.

LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

To be determined.

ARGUMENTS

To be determined.

LEGISLATIVE CONTACT

FTBLegislativeServices@ftb.ca.gov