STATE OF CALIFORNIA
Franchise Tax Board

Bill Analysis

Author: Becker

Sponsor:

Bill Number: SB 49

Related Bills: See Legislative History

Amended: June 15, June 30, and July 3, 2023

SUBJECT

Solar Canopies Tax Credit

SUMMARY

The bill, under the Personal Income Tax Law (PITL) and Corporation Tax Law (CTL), would allow a tax credit equal to 5% of costs paid or incurred for constructing a qualified solar canopy project, not to exceed $100,000 per qualified solar canopy project.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The June 15, 2023, amendments added the tax credit provisions discussed in this analysis to the existing bill regarding the Streets and Highways Code and made amendments to those provisions.

The June 30, 2023, amendments revised the definition of qualifying solar canopy projects, added the Revenue and Taxation Code (RTC) section 41 reporting requirements to the RTC credit provisions, added a sunset date, and made other nonsubstantive changes.

The July 3, 2023, amendments revised the tax credit requirements, added a per project credit cap, defined additional terms, modified the FTB reporting requirements, explicitly allowed the FTB to prescribe necessary regulations to carry out the credit program, and modified the operative and sunset dates.

This is Franchise Tax Board's (FTB) first analysis of the bill and only addresses the provisions that would impact the FTB.

REASON FOR THE BILL

The reason for this bill is to incentivize the development of solar canopies to increase the local generation of renewable energy.

ANALYSIS

Under the PITL and the CTL, this bill, for each taxable year beginning on or after January 1, 2024, and before January 1, 2029, would provide to the owner of a qualified solar canopy project, a tax credit equal to 5% of qualified costs paid or incurred for constructing a qualified solar canopy project, not to exceed $100,000 per qualified solar canopy project.

The credit would be required to be claimed for the taxable year in which the qualified solar canopy project is first placed into service.

This bill would define the following terms:

- “Eligible area” means a multifamily residential, commercial, governmental, or industrial site containing an area dedicated to both the placement of a solar canopy and another use, including, but not limited to, use as a parking lot, outdoor seating, or recreation area.
- “Eligible area” would not include either the roof of a building or a site located over a surface parking lot within one-half mile of a major transit stop or a future major transit stop identified in an applicable regional transportation plan.
- “Major transit stop” has the same meaning as defined in Public Resources Code section 21064.3, which includes an existing retail or bus rapid transit station, a ferry terminal served by either a bus or rail transit service, and the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.
- “Nameplate capacity” means the maximum rated output of electrical power in alternating current of a solar energy system or an energy storage system.
- “Qualified costs” includes, but would not be limited to, costs for materials and equipment, labor, project design and engineering, and permitting.
- “Qualified costs” does not include costs for site acquisition or remediation, environmental mitigation, or any other costs not directly related to the design or construction of the solar canopy.
- “Qualified solar canopy project” means construction of a solar canopy over an eligible area with a nameplate capacity of more than 15 kilowatts.
- “Solar canopy” means an elevated structure containing a solar energy system and would include the solar energy system and powerlines or other equipment required to connect the solar canopy to the electrical grid or a building on the site.
- “Solar energy system” means a solar energy device, with associated energy storage connected to and primarily charged by the solar energy device, that has the purpose of providing for the collection and distribution of solar energy for the generation of electricity. Solar energy systems must be solar paired with storage systems.

The unused credit could be carried over for six years until exhausted.

The bill provides that any deduction allowed for any amount paid or incurred by the taxpayer for which the credit is based would be reduced by the amount of the credit allowed.

This bill would authorize the FTB to adopt regulations necessary or appropriate for purposes of implementing the credit program and would exempt any FTB regulation, rule, guideline, or procedure from the requirements of the Administrative Procedure Act.

This bill would require the FTB to issue a report to the Senate Committee on Budget and Fiscal Review, the Assembly Committee on Budget, the Senate and Assembly Committees on Appropriations, the Senate Committee on Governance and Finance, and the Assembly Committee on Revenue and Taxation beginning in the 2026 calendar year and annually each year thereafter, while the credit is in effect, for the most recent taxable year for which information is available, on the following:

- The dollar amount of tax credits claimed for eligible solar canopy projects.
- The nameplate capacity of solar canopies and energy storage systems constructed by those eligible projects.

The Section 41 reporting requirements would be treated as an exception to the general prohibition against disclosure of confidential taxpayer information.

This credit would remain in effect only until December 1, 2029, and would be repealed as of that date.

Effective/Operative Date

This bill would be effective on January 1, 2024, and specifically operative for taxable years beginning on or after January 1, 2024, and before January 1, 2029.

Federal/State Law

Federal Law

Under federal law, there is a tax credit for the production of electricity from certain renewable resources equal to .3 cents multiplied by the kilowatt hours of electricity produced by the taxpayer from qualified energy resources at a qualified facility and sold to an unrelated person during the taxable year. (Under Internal Revenue Code section 45(b)(2).) Qualified energy resources include wind, solar, closed-loop biomass, hydroelectric, municipal solid waste.

The federal law provides an energy credit. The credit is computed as the energy percentage based on each energy property placed in service during the taxable year. The energy credit percentage varies depending on the type of qualified energy property.

The Inflation Reduction Act (IRA) of 2022 established new credits for energy storage technology, qualified biogas property, and microgrid controllers and bonus credits for domestic content bonus credit, energy communities, and certain solar and wind facilities in connection with low-income communities.

State Law

No comparable provision in state law.

Implementation Considerations

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

This bill would require the FTB to report on the nameplate capacity of solar canopies and energy storage systems constructed by eligible projects. The FTB does not collect this type of data and would not have this information for reporting purposes for the Section 41. Typically, credits involving areas for which the FTB 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.

This bill would allow the credit to the owner of the qualified solar canopy. However, it is unclear what happens when there are multiple owners of the project. For clarity, the author may want to amend the bill.

Technical Considerations

For consistency of terminology, the following change is recommended:

- In Sections 17053.10(a)(1) and 23605(a)(1) replace "for each taxable year" with "for taxable years".
- In Section 23605(b)(5) strike out "of alternating current" in the phrase ""Qualified solar canopy project" means construction of a solar canopy over an eligible area with a nameplate capacity of more than 15 kilowatts of alternating current."

For clarity, the following change is also recommended in Sections 17053.10(d) and 23605(d), replace "…credit allowed under this section." with "…expenses used in computing the credit allowed under this section."

For clarity, the following change is recommended: in Sections 17053.10(f)(3) and 23605(f)(3), strike out “eligible solar canopy projects” and “eligible projects” and insert “qualified solar canopy projects”.

In Section 23605(b)(1)(A), insert “multifamily” before residential to conform with the PITL section.

Policy Considerations

None noted.

LEGISLATIVE HISTORY

No legislation similar to this bill has been identified.

PROGRAM BACKGROUND

None noted.

FISCAL IMPACT

This bill would require a new form or worksheet to be developed for the calculation of the credit and to capture information for the reporting requirement. As a result, this bill would impact the FTB’s programming, processing, and form revisions as well as the need for taxpayer outreach. As the bill continues to move through the legislative process, costs will be determined.

ECONOMIC IMPACT

Revenue Estimate

This bill would for taxable years beginning on or after January 1, 2024, and before January 1, 2029, allow a credit equal to 5% of costs paid or incurred for construction of a qualified solar canopy project, not to exceed $100,000 per project.

To determine the potential impact to the General Fund, both the frequency of qualified solar canopy projects constructed, and the dollar amount of the projects must be known. Because it is difficult to predict the number of canopy projects and their dollar amounts, the revenue impact is unknown.

However, it is estimated that for every $10 million of credits generated and accounting for the loss of deductions no longer allowed, the revenue loss would be approximately $4 million.

LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

As per the Assembly Revenue and Taxation Committee analysis of SB 49 dated July 7, 2023, the following organizations support this bill, while no opposition was received:

350 Humboldt: Grass Roots Climate Action; 52nd District; All Rise Alameda; Building the Base Face to Face; California Municipal Utilities Association; California Solar & Storage Association; California State Association of Electrical Workers; Carbon Free Palo Alto; Carbon Free Silicon Valley; Change Begins With Me (INDIVISIBLE); Cloverdale Indivisible; Contra Costa MoveOn; Defending Our Future: Indivisible in Ca; East Valley Indivisibles; El Cerrito Progressives; El Dorado Progressives; Elders Climate Action, Norcal and Socal Chapters; Engie North America; Feminists in Action (formerly Indivisible CA 34 Womens); Hillcrest Indivisible; Indi Squared; Indian Valley Indivisibles; Indivisible 30/keep Sherman Accountable; Indivisible 36; Indivisible 41; Indivisible Auburn CA; Indivisible Beach Cities; Indivisible Ca-25 Simi Valley-porter Ranch; Indivisible Ca-3; Indivisible Ca-3;7 Indivisible Ca-39; Indivisible Ca-43; Indivisible Ca-7; Indivisible Ca29; Indivisible Ca: Statestrong; Indivisible Claremont/inland Valley; Indivisible Colusa County; Indivisible East Bay; Indivisible El Dorado Hills; Indivisible Elmwood; Indivisible Euclid; Indivisible Lorin; Indivisible Los Angeles; Indivisible Manteca; Indivisible Marin; Indivisible Media City Burbank; Indivisible Mendocino; Indivisible Normal Heights; Indivisible North Oakland Resistance; Indivisible North San Diego County; Indivisible Oc 46; Indivisible Oc 48; Indivisible Petaluma; Indivisible Sacramento; Indivisible San Bernardino; Indivisible San Jose; Indivisible San Pedro; Indivisible Santa Barbara; Indivisible Santa Cruz County; Indivisible Sausalito; Indivisible Sebastopol; Indivisible Sf; Indivisible Sf Peninsula and Ca - 14; Indivisible Sonoma County; Indivisible South Bay LA; Indivisible Stanislaus; Indivisible Suffragists; Indivisible Ventura; Indivisible Westside L. A.; Indivisible Windsor; Indivisible Yolo; Indivisible: San Diego Central; Indivisibles of Sherman Oaks; League of Women Voters of California; Livermore Indivisible; Mill Valley Community Action Network; Mountain Progressives; Nothing Rhymes With Orange; Orchard City Indivisible; Orinda Progressive Action Alliance; Our Revolution Long Beach; Riseup; Rooted in Resistance; Ross Valley Indivisible; San Diego Indivisible Downtown; Sfv Indivisible; Tehama Indivisible; The

Resistance Northridge -indivisible; Together We Will Contra Costa; Tww/indivisible – Los Gatos; Vallejo-benicia Indivisible; Venice Resistance; Women's Alliance Los Angeles and Yalla Indivisible.

ARGUMENTS

As per the same analysis, no arguments were noted.

LEGISLATIVE CONTACT

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