



## Bill Analysis

Author: Castillo, et al.

Sponsor:

Bill Number: AB 921

Related Bills: See Legislative  
History

Introduced: February 19, 2025

### SUBJECT

Generator Tax Credit

### SUMMARY

This bill would, under the Health and Safety Code, exempt the sale or purchase of portable or emergency back-up generators from certain engine and evaporative emissions state regulations, and would, under the Personal Income Tax Law (PITL) and Corporation Tax Law (CTL), allow a tax credit to qualified taxpayers for the amount paid or incurred, limited to \$3,500, for the purchase of certain back-up electricity generators for use in a residential or commercial property for taxable years beginning on or after January 1, 2026, and before January 1, 2031.

This analysis only addresses the provisions of the bill that would impact the Franchise Tax Board (FTB).

### RECOMMENDATION

No position—The three-member Franchise Tax Board has not formally voted or taken a position on this bill.

### SUMMARY OF AMENDMENTS

Not applicable.

### REASON FOR THE BILL

The reason for the bill is to encourage the purchase of back-up electricity generators during a proclaimed state of emergency issued by the Governor resulting in a loss of electrical service.

### ANALYSIS

This bill would, under the PITL and CTL, for taxable years beginning on or after January 1, 2026, and before January 1, 2031, allow a credit in an amount equal to the amount paid or incurred by a qualified taxpayer for the purchase of a back-up electricity generator, limited to \$3,500, during the taxable year for use in a home or commercial property. This bill would allow a maximum credit to a qualified taxpayer of \$3,500 per taxable year.

The bill would define the following terms and phrases:

- “Small business” means a business with 50 or fewer employees.
- “Qualified taxpayer” means a natural person or a small business.
- “Qualified expenditure” means the purchase of a back-up electricity generator that does not exceed \$7,000, for use in a residence or commercial property.

Unused credits would have an unlimited carryover period.

For purposes of Revenue and Taxation Code (RTC) section 41, this bill would provide that the measurement of effectiveness of the credit would be the number of taxpayers that are allowed the credit. The FTB would be required to annually publish anonymized data on the credit through calendar year 2031. This reporting would be treated as an exception to the general prohibition against disclosure of confidential taxpayer information.

This credit would be repealed by its own terms on December 1, 2031.

#### *Effective/Operative Date*

This bill would be effective January 1, 2026, and specifically operative for taxable years beginning on or after January 1, 2026, and before January 1, 2031.

#### *Federal/State Law*

Existing federal and state 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.

Current state and federal laws generally allow taxpayers engaged in a trade or business to deduct all expenses that are considered ordinary and necessary in conducting that trade or business.

Currently, there is no federal or state credit comparable to the credit this bill would create.

#### *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 uses the undefined terms “back-up electricity generator” and “business” in the definition of a small business. The absence of a definition to define these terms could lead to disputes with taxpayers. The author may want to amend the bill to clearly define these terms.

This bill would require FTB to publish anonymized data through calendar year 2031. Because this credit would be for taxable years beginning on or after January 1, 2026, and before January 1, 2031, we recommend amending the language due to the timing and the ability to collect complete data. If the author’s intent is to be able to review a report that contains complete information for the 2026-2030 taxable years, it is recommended that the report due date be extended to July 1, 2028, and annually thereafter, through 2031.

### *Technical Considerations*

The PITL includes definitions for individual, person, and taxpayer that all have different meanings. In addition, taxpayer is also defined under the CTL. In lieu of the term “small business,” if it is consistent with the author’s intent, Section 17053.49(b)(2) and Section 23634 could be amended to define qualified taxpayer using one of these defined terms as follows: “Qualified taxpayer” means a \_\_\_\_\_ that employs 50 or fewer employees.”

To include reporting on the CTL credit as well, Section 17053.49(d)(1) should be amended to include the credit allowed under both Section 17053.49 and Section 23634.

### *Policy Considerations*

Because the bill does not specify otherwise:

- 1) Multiple taxpayers could purchase a back-up electricity generator for use at the same residence or commercial property and qualify for the credit.
- 2) A taxpayer could also purchase a back-up electricity generator, claim the credit, and not install or use the generator for any length of time or during a power outage, and qualify for the credit.

This bill would allow a credit for a back-up electricity generator that may be currently deductible as a business expense. Generally, a credit is allowed in lieu of a deduction to eliminate multiple tax benefits for the same item of expense.

This bill defines “qualified expenditure” as the purchase of a back-up electricity generator that does not exceed \$7,000 and is used for a specified purpose. In the case of a purchase that exceeds \$7,000 a credit would not be allowed. If this is contrary to the author’s intent, the bill should be amended.

This bill would allow an unlimited carryover period. Credits are generally enacted with a limited carryover period because experience shows credits typically are exhausted within eight years of being earned. For ease of compliance and administration, the author may wish to amend the bill.

If the author's intent is to allow the credit to businesses that have employees in California, the bill could include a provision that the qualified taxpayer employs employees with wages subject to withholding under the Unemployment Insurance Code.

## **LEGISLATIVE HISTORY**

ABX1-14 (Castillo, 2025/2026), substantially similar to this bill, under the PITL, would have allowed a credit to qualified taxpayers for the amount paid or incurred, limited to \$3,500, to purchase a back-up electricity generator for use in a residential or commercial property. ABX1-14 "died at the desk" in the Assembly three business days after introduction.

AB 2892 (Bigelow, 2021/2022), under the PITL and CTL, would have allowed a credit to qualified taxpayers for amounts paid or incurred for the purchase of a back-up electricity generator for use in a residential or commercial property in a designated wildfire zone. AB 2892 was held in the Assembly Revenue and Taxation Committee without further action.

SB 1266 (Borgeas, 2021/2022), under the PITL and CTL, would have allowed a credit to qualified taxpayers for the amount paid or incurred to purchase a back-up electricity generator or solar battery for use in a residential or commercial property in a designated wildfire zone, limited to \$3,500 (generator) or \$5,000 (battery). SB 1266 was held in the Assembly Revenue and Taxation Committee without further action.

## **PROGRAM BACKGROUND**

None noted.

## **OTHER STATES' INFORMATION**

None noted.

## **FISCAL IMPACT**

FTB'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 921 as Introduced February 19, 2025  
Assumed Enactment after June 30, 2025

(\$ in millions)

<b>Fiscal Year</b>	<b>Revenue</b>
2025-2026	-\$110
2026-2027	-\$300
2027-2028	-\$450

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.

*Revenue Discussion*

Based on data from the U.S. Census Bureau, it is estimated that in 2026 there would be about 15 million housing units in California. Based on data from various publications, it is estimated that two percent, or 250,000, of owners or tenants would purchase or replace a back-up generator in the 2026 taxable year.

Using data from the U.S. Census Bureau and the California Employment Development Department, it is estimated that in 2026 there would be about 1.9 million businesses in California. Of this amount, it is estimated that 95 percent, or 1.8 million, would be qualified small businesses. Based on data from various publications, it is estimated that three percent, or 50,000, would purchase or replace a back-up generator in the 2026 taxable year.

Research indicates that back-up generators cost between \$500 and \$18,000. Allowing for the maximum expenditure of \$7,000, the cost to purchase a generator is stratified between \$500 and \$7,000, resulting in total estimated qualified costs for individuals and small businesses of \$775 million. After applying the maximum credit amount of \$3,500, it is estimated about \$620 million in credit would be generated by qualified taxpayers during the 2026 taxable year.

It is estimated that approximately 65 percent, or \$410 million, would be earned by taxpayers with sufficient tax liability to offset with the credit. Of that amount, 45 percent, or \$190 million, would be claimed in the year generated and the remaining credit would be used in the subsequent years.

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

**LEGAL IMPACT**

None noted.

**EQUITY IMPACT**

None noted.

**APPOINTMENTS**

None noted.

**SUPPORT/OPPOSITION**

To be determined.

**ARGUMENTS**

To be determined.

**LEGISLATIVE CONTACT**

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