
THIRD READING

Bill No: SB 1266
Author: Borgeas (R)
Amended: 5/19/22
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 5/4/22
AYES: Caballero, Nielsen, Durazo, Hertzberg, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/19/22
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

SUBJECT: Income taxes: credits: designated wildfire zones

SOURCE: Author

DIGEST: This bill creates a tax credit against the Personal Income and the Corporation Tax, equal to 50 percent of the cost of a qualified generator or solar battery for qualified taxpayers in designated wildfire zones.

ANALYSIS:

Existing law:

- 1) Allows various tax credits against the Personal Income and Corporation Taxes.
- 2) Allows taxpayers engaged in a trade or business to deduct all expenses that are considered ordinary and necessary in conducting that trade or business. This includes expenses for employee wages, rent, utilities and other things reasonable and necessary to conduct their business.

This bill:

- 1) Creates a tax credit against the Personal Income and Corporation taxes for qualified taxpayers for the purchase of qualified generators or solar batteries in designated wildfire zone. The tax credit is operative for the 2023 – 2028 taxable years.

- 2) Provides that the credit is operative only for taxable years for which an appropriation is made for its purpose in the annual Budget Act or other statute.
- 3) Sets the credit amount as equal to 50 percent of the amounts paid or incurred by a qualified taxpayer in a designated wildfire zone during the taxable year for a qualified expenditure. The total amount of credit allowed per taxable year is limited to either of the following:
 - a) For the purchase of a backup electricity generator, \$3,500 per residence or commercial property;
 - b) For the purchase of a solar battery, \$5,000 per residence or commercial property.
- 4) Includes the following definitions:
 - a) “Backup electricity generator” means a standby or portable device that can generate at least 10 kilowatts, is designed and manufactured exclusively for the generation of electricity; and the device meets and complies with the State Air Resources Board’s air quality standards for use in California.
 - b) “Qualified taxpayer” means a natural person or a small business that incurs qualified expenditure.
 - c) “Qualified expenditure” means the purchase of one of the following:
 - i) A back up electricity generator for use in a residence or commercial property in a designated wildfire;
 - ii) A solar battery for use in a residence or commercial property in a designated wildfire zone.
 - d) “Designated wildfire zone” means a territory within a high fire-threat district designated a Tier 3 fire-threat area, as determined by the Public Utilities Commission.
 - e) “Small business” means a business that has average annual gross receipts of \$15 Million or less for the previous three taxable years.
- 5) Allows taxpayers to carry forward any unused credits for up to seven years, or until the credit is exhausted.
- 6) Makes legislative findings and declarations to comply with Section 41 of the Revenue and Taxation Code.

Background

Tax Expenditures. California law allows various income tax credits, deductions, exemptions, and exclusions. The Legislature enacts such tax incentives either to compensate taxpayers for incurring certain expenses, such as child adoption, or to influence certain behavior, such as charitable giving. The Legislature uses tax incentives to encourage taxpayers to do something that but for the tax credit, they would otherwise not do. The Department of Finance is required annually to publish a list of state tax expenditures, currently totaling around \$81.1 billion per year.

California Fires. In recent years, California has seen many devastating fires. Over the last decade, California has experienced increased, intense, and record-breaking wildfires throughout the state. These fires have resulted in devastating loss of life and billions of dollars in damage to property and infrastructure. Fires attributed to power lines and electrical equipment comprise nine of the 20 most destructive fires in California history. According to Cal Fire in 2021 alone there were over 8,000 incidents and over 2.5 million acres of scorched land, in 2020 4.5 million acres of land were destroyed.

Public Safety Power Shutoffs. To protect the public from potential wildfires, investor-owned utilities have taken extra precautions by implementing Public Safety Power Shutoffs (PSPS) in certain regions. A PSPS, also referred to as de-energization, is a last resort preventative measure designed to reduce the risk of utility infrastructure starting wildfires when the electric utility turns off power to distribution lines. No single factor determines whether an electric utility indicates a PSPS; instead, each electric utility reviews a combination of criteria when determining if power should be turned off. Factors that may determine if power should be turned off for public safety include, but are not limited to:

- High and sustained winds, including red flag warnings issued by the National Weather Service to inform the public, firefighters, and land management agencies that conditions are ideal for wildland fire combustion and rapid spread;
- Low humidity levels and dry vegetation that could serve as fuel;
- Fire threats from electric infrastructure; and,
- On-the-ground observations from the electrical utilities' safety operation center, field crews, and drones.

Section 41. Section 41 of the Revenue and Taxation Code requires any bill authorizing a new tax expenditure to contain, among other things, specific goals, purposes, and objectives that the tax expenditure will achieve, detailed performance indicators, along with data collection and reporting requirements (SB 1335, Leno, Chapter 845, Statutes of 2014). To meet these requirements, SB 1266 states that its purpose is to encourage the purchase of backup electricity generators or solar batteries that are necessary to protect the health and safety of residents and businesses in designated wildfire zones. The stated performance indicator of SB 1266 is measured through how many taxpayers are allowed the credit. To measure the credit's impact, the bill directs the Franchise Tax Board (FTB) to submit a report to the Legislature regarding the number of taxpayers claiming the credit through the 2028 taxable year.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee, FTB estimates that this bill would result in General Fund revenue losses of \$44 million in 2022-23, \$90 million in 2023-24, and \$100 million in 2024-25. FTB's costs to implement the bill have yet to be determined.

SUPPORT: (Verified 5/19/22)

California Fire Chiefs Association
Fire Districts Association of California
Rural County Representatives of California
Small Business California

OPPOSITION: (Verified 5/19/22)

California Teachers Association

ARGUMENTS IN SUPPORT: According to the author, "to mitigate the loss of power during Public Safety Power Shut-off events, individuals can utilize sources for back up generation such as generators or batteries. These backup sources of power provide individuals and small businesses the ability to meet specific power needs during de-energization events. Although backup generation and batteries are effective tools to mitigate the loss of power, the issue presented is the cost of these items. Backup generators can cost anywhere from \$2,000 to \$7,000 while back up batteries can range from \$10,000 to \$20,000."

ARGUMENTS IN OPPOSITION: According to the California Teachers Association, “this revenue would have otherwise gone to the General Fund, of which approximately 40 percent would have been applied to Proposition 98”

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