

AMENDED IN SENATE JUNE 29, 2002
AMENDED IN SENATE JUNE 24, 2002
AMENDED IN ASSEMBLY JUNE 6, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 3009

Introduced by Committee on Budget (Oropeza (Chair), Aroner, Cardenas, Cardoza, Cedillo, Diaz, Dutra, Firebaugh, Horton, Keeley, Pavley, Simitian, Steinberg, Vargas, and Wright)

March 4, 2002

~~An act to amend Sections 17053.30, 23630, and 40016 of the Revenue and Taxation Code, relating to~~ *An act to amend Section 37022 of the Public Resources Code, and to amend Section 40016 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.*

LEGISLATIVE COUNSEL'S DIGEST

AB 3009, as amended, Committee on Budget. Personal income and corporation taxes: *credits*: energy surcharge.

~~The Personal Income Tax Law and the Bank and Corporation Tax Law authorize various credits against the taxes imposed by those laws, including a credit in an amount equal to 55% of the fair market value of any qualified contribution, as defined, contributed during the taxable year pursuant to the Natural Preservation Tax Credit Act of 2000, as provided.~~

~~This bill would suspend these credits for taxable years beginning on or after January 1, 2002, and before January 1, 2003, as provided.~~

(1) *The Natural Heritage Preservation Tax Credit Act of 2000 requires the Wildlife Conservation Board to implement a program under which property, as defined, may be contributed to the state, any local government, as defined, or to any nonprofit organization designated by a local government, based on specified criteria, in order to provide for the protection of wildlife habitat, open space, and agricultural lands.*

The Personal Income Tax Law and the Bank and Corporation Tax Law authorize a credit against the taxes imposed by those laws in an amount equal to 55% of the fair market value of any qualified contribution, as defined, contributed during the taxable year pursuant to the Natural Preservation Tax Credit Act of 2000, as provided. The total amount of tax credits that may be awarded in the fiscal years 2001–02, 2002–03, 2003–04, and 2004–05 is limited to \$100,000,000, as provided.

This bill would suspend the award of tax credits in the 2002–03 fiscal year.

(2) *The Energy Surcharge Law imposes a surcharge on the consumption of electrical energy purchased from an electric utility at a rate fixed by the State Board of Equalization, as specified.*

This bill would, with respect to electrical energy purchased from an electric utility on or after January 1, 2003, require that the rate not exceed \$0.0003 per kilowatthour, or a lower rate fixed by the Energy Commission at a public meeting held each November for the following calendar year.

~~This~~

(3) *This bill would result in a change in state taxes for the purpose of increasing state revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of 2/3 of the membership of each house of the Legislature.*

This bill would take effect immediately as a tax levy.

Vote: 2/3. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1.—Section 17053.30 of the Revenue and Taxation~~
- 2 *SECTION 1. Section 37022 of the Public Resources Code is*
- 3 *amended to read:*



1 37022. (a) No more than a total of one hundred million
2 dollars (\$100,000,000) in tax credits may be awarded pursuant to
3 this division.

4 (b) Tax credits may be awarded pursuant to this division in the
5 fiscal years 2000–01, 2001–02, 2002–03, 2003–04, and 2004–05.
6 No tax credits may be awarded subsequent to fiscal year 2004–05
7 without further statutory authorization.

8 (c) *In addition to the limitations in subdivisions (a) and (b), no*
9 *tax credits may be awarded pursuant to this division between July*
10 *1, 2002, and June 30, 2003, inclusive. Any amounts that would*
11 *have been awarded pursuant to this division in the 2002–03 fiscal*
12 *year, but for the application of the preceding sentence, may be*
13 *awarded in the 2003–04 fiscal year and the remainder, if any, in*
14 *the 2004–05 fiscal year.*

15 Code is amended to read:

16 17053.30. ~~(a) There shall be allowed as a credit against the~~
17 ~~“net tax,” as defined in Section 17039, an amount equal to 55~~
18 ~~percent of the fair market value of any qualified contribution made~~
19 ~~on or after January 1, 2000, and prior to January 1, 2002, and on~~
20 ~~or after January 1, 2003, and prior to December 31, 2005, by the~~
21 ~~taxpayer during the taxable year to the state, any local government,~~
22 ~~or any designated nonprofit organization, pursuant to Division 28~~
23 ~~(commencing with Section 37000) of the Public Resources Code.~~

24 (b) ~~For purposes of this section, “qualified contribution”~~
25 ~~means a contribution of property, as defined in Section 37002 of~~
26 ~~the Public Resources Code, that has been approved for acceptance~~
27 ~~by the Wildlife Conservation Board pursuant to Division 28~~
28 ~~(commencing with Section 37000) of the Public Resources Code.~~

29 (c) ~~In the case of any passthrough entity, the fair market value~~
30 ~~of any qualified contribution approved for acceptance under~~
31 ~~Division 28 (commencing with Section 37000) of the Public~~
32 ~~Resources Code shall be passed through to the partners or~~
33 ~~shareholders of the passthrough entity in accordance with their~~
34 ~~interest in the passthrough entity as of the date of the qualified~~
35 ~~contribution. For purposes of this subdivision, the term~~
36 ~~“passthrough entity” means any partnership, S corporation, or~~
37 ~~limited liability company treated as a partnership.~~

38 (d) ~~If the credit allowed by this section exceeds the “net tax,”~~
39 ~~the excess may be carried over to reduce the “net tax” in the~~



1 following year, and the succeeding seven years if necessary, until
2 the credit is exhausted.

3 (c) This credit shall be in lieu of any other credit or deduction
4 which the taxpayer may otherwise claim pursuant to this part with
5 respect to the property or any interest therein that is contributed.

6 ~~SEC. 2.—Section 23630 of the Revenue and Taxation Code is~~
7 ~~amended to read:~~

8 ~~23630. (a) There shall be allowed as a credit against the~~
9 ~~“tax,” as defined in Section 23036, an amount equal to 55 percent~~
10 ~~of the fair market value of any qualified contribution made on or~~
11 ~~after January 1, 2000, and prior to January 1, 2002, and on or after~~
12 ~~January 1, 2003, and prior to December 31, 2005, by the taxpayer~~
13 ~~during the taxable year to the state, any local government, or any~~
14 ~~designated nonprofit organization, pursuant to Division 28~~
15 ~~(commencing with Section 37000) of the Public Resources Code.~~

16 ~~(b) For purposes of this section, “qualified contribution”~~
17 ~~means a contribution of property, as defined in Section 37002 of~~
18 ~~the Public Resources Code, that has been approved for acceptance~~
19 ~~by the Wildlife Conservation Board pursuant to Division 28~~
20 ~~(commencing with Section 37000) of the Public Resources Code.~~

21 ~~(c) In the case of any passthrough entity, the fair market value~~
22 ~~of any qualified contribution approved for acceptance under~~
23 ~~Division 28 (commencing with Section 37000) of the Public~~
24 ~~Resources Code shall be passed through to the partners or~~
25 ~~shareholders of the passthrough entity in accordance with their~~
26 ~~interest in the passthrough entity as of the date of the qualified~~
27 ~~contribution. For purposes of this subdivision, the term~~
28 ~~“passthrough entity” means any partnership or S corporation.~~

29 ~~(d) If the credit allowed by this section exceeds the “tax,” the~~
30 ~~excess may be carried over to reduce the “tax” in the following~~
31 ~~year, and the succeeding seven years if necessary, until the credit~~
32 ~~is exhausted.~~

33 ~~(e) This credit shall be in lieu of any other credit or deduction~~
34 ~~that the taxpayer may otherwise claim pursuant to this part with~~
35 ~~respect to the property or any interest therein that is contributed.~~

36 ~~SEC. 3.—~~

37 ~~SEC. 2. Section 40016 of the Revenue and Taxation Code is~~
38 ~~amended to read:~~

39 ~~40016. (a) A surcharge is imposed on the consumption in this~~
40 ~~state of electrical energy purchased from an electric utility on and~~



1 after January 1, 2003, at the rate of three-tenths mill (\$0.0003) per
2 kilowatthour, or at the rate determined pursuant to subdivision (b).

3 (b) The Energy Commission shall fix the rate at a public
4 meeting in each November for each calendar year starting the
5 following January. Under no circumstances may the rate fixed
6 exceed three-tenths mill (\$0.0003) per kilowatthour. If the
7 commission fails to fix the rate in any November, the surcharge
8 shall continue at the rate in effect during that November.

9 ~~SEC. 4.—~~

10 *SEC. 3.* This act provides for a tax levy within the meaning
11 of Article IV of the Constitution and shall go into immediate
12 effect.

