

Assembly Bill No. 3009

CHAPTER 1033

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.

[Approved by Governor September 28, 2002. Filed with Secretary of State September 28, 2002.]

LEGISLATIVE COUNSEL'S DIGEST

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

(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.

(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 $\frac{2}{3}$ of the membership of each house of the Legislature.

This bill would take effect immediately as a tax levy.

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

SECTION 1. Section 37022 of the Public Resources Code is amended to read:

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

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

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

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

40016. (a) A surcharge is imposed on the consumption in this state of electrical energy purchased from an electric utility on and after January 1, 2003, at the rate of three-tenths mill (\$0.0003) per kilowatthour, or at the rate determined pursuant to subdivision (b).

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

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

