

AMENDED IN SENATE APRIL 16, 2001

CALIFORNIA LEGISLATURE—2001–02 FIRST EXTRAORDINARY SESSION

**SENATE BILL**

**No. 38**

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**Introduced by Senator Oller**

*(Principal coauthor: Assembly Member Hollingsworth)*

*(Coauthors: Senators Haynes, Johannessen, Knight, McClintock,  
Monteith, and Morrow)*

*(Coauthors: Assembly Members Ashburn, Briggs, Cogdill, Cox, La  
Suer, Leslie, Robert Pacheco, Strickland, and Wyman)*

February 8, 2001

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An act to add Section 41511.3 to the Health and Safety Code, and to add Sections 17053.96 and 23696 to the Revenue and Taxation Code, relating to electrical generators.

LEGISLATIVE COUNSEL'S DIGEST

SB 38, as amended, Oller. Electrical generation: use of backup generators.

(1) Existing law requires the State Air Resources Board to identify toxic air contaminants that are emitted into the ambient air of the state, pursuant to a specified procedure, and to establish airborne toxic control measures for toxic air contaminants, including adopting airborne toxic control measures to reduce emissions of toxic air contaminants from nonvehicular sources.

This bill would authorize any commercial, industrial, or residential customer of a local utility to use a backup generator, as defined, *to provide power for a home or business* during a stage 1, 2, or 3 emergency energy alert declared by the Independent ~~Systems~~ *System* Operator. The bill would require the state board, *and any affected air*

*quality management district or air pollution control district*, to immediately suspend any of its regulations that would prevent the operation of a backup generator during a stage 1, 2, or 3 emergency energy alert declared by the Independent ~~Systems~~ System Operator, at the recommendation of a local utility that certifies that it will levy no charges or other financial penalties against a customer who utilizes a backup generator.

(2) The Personal Income Tax Law and the Bank and Corporation Tax Law authorize various credits against the taxes imposed by those laws.

This bill would, under both laws, allow a credit in an amount equal to 100% of the cost paid or incurred by a taxpayer during the taxable year for the purchase of a backup generator and for related hook-up and switching equipment.

Vote: majority. 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 41511.3 is added to the Health and  
2 Safety Code, to read:

3 41511.3. (a) Notwithstanding any other provision of law:

4 (1) Any commercial, industrial, or residential customer of a  
5 local utility may use a backup generator *to provide power for a*  
6 *home or business* during a stage 1, 2, or 3 emergency energy alert  
7 declared by the Independent ~~Systems~~ System Operator.

8 (2) During a stage 1, 2, or 3 emergency energy alert declared  
9 by the Independent ~~Systems~~ System Operator, and at the  
10 recommendation of a local utility that certifies that it will levy no  
11 charges or other financial penalties against a customer who utilizes  
12 a backup generator, the state board *and any affected air quality*  
13 *management district or air pollution control district* shall  
14 immediately suspend the application of any of its regulations that  
15 would restrict the operation of a backup generator.

16 (3) The ~~state board~~ Franchise Tax Board shall administer the  
17 backup generator tax credit, as provided in Sections 17053.96 and  
18 23696 of the Revenue and Taxation Code.

19 (b) As used in this section, “backup generator” means an  
20 electrical generator operated for the purpose of providing



1 emergency power to a customer who otherwise purchases power  
2 from a utility.

3 SEC. 2. Section 17053.96 is added to the Revenue and  
4 Taxation Code, to read:

5 17053.96. (a) For each taxable year beginning on or after  
6 January 1, 2002, there shall be allowed as a credit against the “net  
7 tax,” as defined in Section 17039, an amount equal to 100 percent  
8 of the cost paid or incurred during that taxable year by a taxpayer  
9 for the purchase of a backup generator, as defined in Section  
10 41511.3 of the Health and Safety Code, and related hook-up and  
11 switching equipment, *as determined by the State Air Resources*  
12 *Board.*

13 (b) No deduction may be allowed under this part for any cost  
14 for which a credit is allowed by this section.

15 (c) In the case where the credit allowed by this section exceeds  
16 the “net tax,” the excess may be carried over to reduce the “net  
17 tax” in the following year, and succeeding four years if necessary,  
18 until the credit is exhausted.

19 SEC. 3. Section 23696 is added to the Revenue and Taxation  
20 Code, to read:

21 23696. (a) For each taxable year beginning on or after  
22 January 1, 2002, there shall be allowed as a credit against the  
23 “tax,” as defined in Section 23036, an amount equal to 100  
24 percent of the cost paid or incurred during that taxable year by a  
25 taxpayer for the purchase of a backup generator, as defined in  
26 Section 41511.3 of the Health and Safety Code, and related  
27 hook-up and switching equipment, *as determined by the State Air*  
28 *Resources Board.*

29 (b) No deduction may be allowed under this part for any cost  
30 for which a credit is allowed by this section.

31 (c) In the case where the credit allowed by this section exceeds  
32 the “tax,” the excess may be carried over to reduce the “tax” in  
33 the following year, and succeeding years if necessary, until the  
34 credit is exhausted.

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