

Introduced by Senator Figueroa

February 22, 2001

An act to amend Section 17039 of, and to add Sections 17053 and 23605 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 547, as introduced, Figueroa. Income and bank and corporation taxes: credits: transit passes.

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 authorize a credit against those taxes for each taxable year beginning on or after January 1, 2001, in specified amounts, for the cost paid or incurred by employers who provide subsidized transit passes to their employees.

This bill would also require the California Research Bureau to report to the Legislature on the credit created by this bill.

This bill would take effect immediately as a tax levy.

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 17039 of the Revenue and Taxation
- 2 Code is amended to read:
- 3 17039. (a) Notwithstanding any provision in this part to the
- 4 contrary, for the purposes of computing tax credits, the term "net
- 5 tax" means the tax imposed under either Section 17041 or 17048
- 6 plus the tax imposed under Section 17504 (relating to lump-sum

1 distributions) less the credits allowed by Section 17054 (relating
2 to personal exemption credits) and any amount imposed under
3 paragraph (1) of subdivision (d) and paragraph (1) of subdivision
4 (e) of Section 17560. Notwithstanding the preceding sentence, the
5 “net tax” shall not be less than the tax imposed under Section
6 17504 (relating to the separate tax on lump-sum distributions), if
7 any. Credits shall be allowed against “net tax” in the following
8 order:

9 (1) Credits that do not contain carryover or refundable
10 provisions, except those described in paragraphs (4) and (5).

11 (2) Credits that contain carryover provisions but do not contain
12 refundable provisions.

13 (3) Credits that contain both carryover and refundable
14 provisions.

15 (4) The minimum tax credit allowed by Section 17063 (relating
16 to the alternative minimum tax).

17 (5) Credits for taxes paid to other states allowed by Chapter 12
18 (commencing with Section 18001).

19 (6) Credits that contain refundable provisions but do not
20 contain carryover provisions.

21 The order within each paragraph shall be determined by the
22 Franchise Tax Board.

23 (b) Notwithstanding the provisions of Sections 17061 (relating
24 to refunds pursuant to the Unemployment Insurance Code) and
25 19002 (relating to tax withholding), the credits provided in those
26 sections shall be allowed in the order provided in paragraph (6) of
27 subdivision (a).

28 (c) (1) Notwithstanding any other provision of this part, no tax
29 credit shall reduce the tax imposed under Section 17041 or 17048
30 plus the tax imposed under Section 17504 (relating to the separate
31 tax on lump-sum distributions) below the tentative minimum tax,
32 as defined by Section 17062, except the following credits, but only
33 after allowance of the credit allowed by Section 17063:

34 (A) The credit allowed by Section 17052.2 (relating to teacher
35 retention tax credit).

36 (B) The credit allowed by former Section 17052.4 (relating to
37 solar energy).

38 (C) The credit allowed by former Section 17052.5 (relating to
39 solar energy).



- 1 (D) ~~The credit allowed by Section 17052.5 (relating to solar~~
2 ~~energy).~~
- 3 ~~(E)~~ The credit allowed by Section 17052.12 (relating to
4 research expenses).
- 5 ~~(F)~~
- 6 (E) The credit allowed by former Section 17052.13 (relating to
7 sales and use tax credit).
- 8 ~~(G)~~
- 9 (F) The credit allowed by *former* Section 17052.15 (relating to
10 Los Angeles Revitalization Zone sales tax credit).
- 11 (G) *The credit allowed by Section 17053 (relating to employer*
12 *subsidized transit pass credit).*
- 13 (H) The credit allowed by Section 17053.5 (relating to the
14 renter's credit).
- 15 (I) The credit allowed by former Section 17053.8 (relating to
16 enterprise zone hiring credit).
- 17 (J) The credit allowed by former Section 17053.10 (relating to
18 Los Angeles Revitalization Zone hiring credit).
- 19 (K) The credit allowed by former Section 17053.11 (relating to
20 program area hiring credit).
- 21 (L) For each taxable year beginning on or after January 1, 1994,
22 the credit allowed by former Section 17053.17 (relating to Los
23 Angeles Revitalization Zone hiring credit).
- 24 (M) The credit allowed by Section 17053.33 (relating to
25 targeted tax area sales or use tax credit).
- 26 (N) The credit allowed by Section 17053.34 (relating to
27 targeted tax area hiring credit).
- 28 (O) The credit allowed by Section 17053.49 (relating to
29 qualified property).
- 30 (P) The credit allowed by Section 17053.70 (relating to
31 enterprise zone sales or use tax credit).
- 32 (Q) The credit allowed by Section 17053.74 (relating to
33 enterprise zone hiring credit).
- 34 (R) The credit allowed by Section 17054 (relating to credits for
35 personal exemption).
- 36 (S) The credit allowed by Section 17057 (relating to clinical
37 testing expenses).
- 38 (T) The credit allowed by Section 17058 (relating to
39 low-income housing).



1 (U) The credit allowed by Section 17061 (relating to refunds
2 pursuant to the Unemployment Insurance Code).

3 (V) Credits for taxes paid to other states allowed by Chapter 12
4 (commencing with Section 18001).

5 (W) The credit allowed by Section 19002 (relating to tax
6 withholding).

7 (2) Any credit that is partially or totally denied under paragraph
8 (1) shall be allowed to be carried over and applied to the net tax in
9 succeeding taxable years, if the provisions relating to that credit
10 include a provision to allow a carryover when that credit exceeds
11 the net tax.

12 (d) Unless otherwise provided, any remaining carryover of a
13 credit allowed by a section that has been repealed or made
14 inoperative shall continue to be allowed to be carried over under
15 the provisions of that section as it read immediately prior to being
16 repealed or becoming inoperative.

17 (e) (1) Unless otherwise provided, if two or more taxpayers
18 (other than husband and wife) share in costs that would be eligible
19 for a tax credit allowed under this part, each taxpayer shall be
20 eligible to receive the tax credit in proportion to his or her
21 respective share of the costs paid or incurred.

22 (2) In the case of a partnership, the credit shall be allocated
23 among the partners pursuant to a written partnership agreement in
24 accordance with Section 704 of the Internal Revenue Code,
25 relating to partner's distributive share.

26 (3) In the case of a husband and wife who file separate returns,
27 the credit may be taken by either or equally divided between them.

28 (f) Unless otherwise provided, in the case of a partnership, any
29 credit allowed by this part shall be computed at the partnership
30 level, and any limitation on the expenses qualifying for the credit
31 or limitation upon the amount of the credit shall be applied to the
32 partnership and to each partner.

33 (g) (1) With respect to any taxpayer that directly or indirectly
34 owns an interest in a business entity that is disregarded for tax
35 purposes pursuant to Section 23038 and any regulations
36 thereunder, the amount of any credit or credit carryforward
37 allowable for any taxable year attributable to the disregarded
38 business entity shall be limited in accordance with paragraphs (2)
39 and (3).



1 (2) The amount of any credit otherwise allowed under this part,
2 including any credit carryover from prior years, that may be
3 applied to reduce the taxpayer's "net tax," as defined in
4 subdivision (a), for the taxable year shall be limited to an amount
5 equal to the excess of the taxpayer's regular tax (as defined in
6 Section 17062), determined by including income attributable to
7 the disregarded business entity that generated the credit or credit
8 carryover, over the taxpayer's regular tax (as defined in Section
9 17062), determined by excluding the income attributable to that
10 disregarded business entity. No credit shall be allowed if the
11 taxpayer's regular tax (as defined in Section 17062), determined
12 by including the income attributable to the disregarded business
13 entity, is less than the taxpayer's regular tax (as defined in Section
14 17062), determined by excluding the income attributable to the
15 disregarded business entity.

16 (3) If the amount of a credit allowed pursuant to the section
17 establishing the credit exceeds the amount allowable under this
18 subdivision in any taxable year, the excess amount may be carried
19 over to subsequent taxable years pursuant to subdivisions (c) and
20 (d).

21 SEC. 2. Section 17053 is added to the Revenue and Taxation
22 Code, to read:

23 17053. (a) For each taxable year beginning on or after
24 January 1, 2001, there shall be allowed as a credit against the "net
25 tax" (as defined in Section 17039) an amount equal to the
26 unreimbursed cost paid or incurred by an employer for public
27 transit passes provided to an employee, as follows:

28 (1) Eighty percent of the cost if the employer provides no free
29 or subsidized parking to any of his or her employees.

30 (2) Forty percent of the cost if the employer provides
31 subsidized parking to any of his or her employees.

32 (3) Twenty percent of the cost if the employer provides free
33 parking to any of his or her employees.

34 (b) If the credit allowed by this section exceeds the "net tax,"
35 the excess may be carried over to reduce the "net tax" in the
36 following year and the succeeding 10 years if necessary, or until
37 the credit has been exhausted, whichever occurs first.

38 (c) For purposes of this section:



1 (1) "Employer" means a taxpayer, except a governmental
2 agency, who employs an employee and for whom services are
3 performed by that employee.

4 (2) "Employee" means an individual, working in California
5 and employed by the taxpayer, who performs at least 10 hours per
6 week of service for the taxpayer for remuneration.

7 (3) "Transit pass" means any pass, token, fare card, voucher,
8 or similar item entitling a person to transportation on a publicly
9 owned mass transit vehicle.

10 (d) The credit provided in this section shall be in lieu of any
11 deduction under this part to which the taxpayer otherwise may be
12 entitled for costs to which the credit applies.

13 SEC. 3. Section 23605 is added to the Revenue and Taxation
14 Code, to read:

15 23605. (a) For each taxable year beginning on or after
16 January 1, 2001, there shall be allowed as a credit against the "tax"
17 (as defined in Section 23036) an amount equal to the unreimbursed
18 cost paid or incurred by an employer for public transit passes
19 provided to an employee, as follows:

20 (1) Eighty percent of the cost if the employer provides no free
21 or subsidized parking to any of its employees.

22 (2) Forty percent of the cost if the employer provides
23 subsidized parking to any of its employees.

24 (3) Twenty percent of the cost if the employer provides free
25 parking to any of its employees.

26 (b) If the credit allowed by this section exceeds the "tax," the
27 excess may be carried over to reduce the "tax" in the following
28 year and succeeding 10 years if necessary, or until the credit has
29 been exhausted, whichever occurs first.

30 (c) For purposes of this section:

31 (1) "Employer" means a taxpayer, except a governmental
32 agency, who employs an employee and for whom services are
33 performed by that employee.

34 (2) "Employee" means an individual, working in California
35 and employed by the taxpayer, who performs at least 10 hours per
36 week of service for the taxpayer for remuneration.

37 (3) "Transit pass" means any pass, token, fare card, voucher,
38 or similar item entitling a person to transportation on a publicly
39 owned mass transit vehicle.



1 (d) The credit provided in this section shall be in lieu of any
2 deduction under this part to which the taxpayer otherwise may be
3 entitled for costs to which the credit applies.

4 SEC. 4. The California Research Bureau shall submit a report
5 to the Legislature by January 1, 2005, on the tax credit, added by
6 this act, for employers who provide public transit passes to their
7 employees. The report shall include the amount of the credit
8 claimed, the number of transit passes issued, and the total public
9 transit ridership in California in taxable years 2001 through 2003.

10 SEC. 5. This act provides for a tax levy within the meaning of
11 Article IV of the Constitution and shall go into immediate effect.

