

AMENDED IN ASSEMBLY APRIL 24, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 923**

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**Introduced by Assembly Member ~~Firebaugh~~ Members  
Firebaugh, Chavez, and Wesson**

February 20, 2003

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~~An act relating to health care.~~ *An act to amend Section 6353 of, to add Sections 7105, 17053.15, and 23608.15 to, and to repeal Sections 6356.5, 6356.6, 6357.1, and 6358.5 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.*

LEGISLATIVE COUNSEL'S DIGEST

AB 923, as amended, Firebaugh. ~~Health care: farmworkers~~ *State taxes: health care.*

*The Sales and Use Tax Law imposes a tax on the gross receipts from the sale in this state of, or the storage, use, or other consumption in this state of, tangible personal property. That law provides various exemptions from that tax, including exemptions for farm equipment and machinery, timber harvesting equipment, racehorse breeding stock, diesel fuel used in farming, and liquefied petroleum gas for use in producing and harvesting agricultural products.*

*This bill would repeal those exemptions.*

*The Personal Income Tax Law and the Corporation Tax law authorizes 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, 2004, for qualified taxpayers who provide health care coverage for their agricultural employees. This bill would require that the aggregate amount of credits allocated to all*

taxpayers for each taxable year equal the estimated amount of the increase for that same taxable year in sales and use tax revenue due to the repeal by this bill of sales and use tax exemptions. This bill would provide that each qualified taxpayer receive a credit equal to the taxpayer's pro rata share of the aggregate amount, based upon the amount of health care coverage costs paid or incurred by the taxpayer.

The bill would impose various duties on the State Board of Equalization, the Franchise Tax Board, and the Employment Development Department in administering the bill, as provided.

This bill would take effect immediately as a tax levy, but specified provisions would become operative on January 1, 2004.

Existing law provides various health care programs for citizens of the state.

This bill would declare the Legislature's intent to enact legislation that makes provision for rural health care for farmworkers.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

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

1 ~~SECTION 1. The Legislature declares its intent to enact~~  
2 ~~legislation that makes provision for rural health care for~~  
3 ~~farmworkers.~~

4 *SECTION 1. Section 6353 of the Revenue and Taxation Code*  
5 *is amended to read:*

6 6353. There are exempted from the taxes imposed by this part  
7 the gross receipts derived from the sales, furnishing, or service of  
8 and the storage, use, or other consumption in this state of, all of the  
9 following:

10 (a) Gas, electricity, and water, including steam and geothermal  
11 steam, brines, and heat, when delivered to consumers through  
12 mains, lines, or pipes.

13 (b) (1) Liquefied petroleum gas, delivered to a qualified  
14 residence by the seller, that is sold for household use in the  
15 qualified residence, ~~or liquefied petroleum gas that is purchased~~  
16 ~~for use by a qualified person to be used in producing and harvesting~~  
17 ~~agricultural products; provided, in either case, the liquefied~~  
18 ~~petroleum gas is delivered into a tank with a storage capacity for~~  
19 ~~liquefied petroleum gas that is equal to or greater than 30 gallons.~~

20 This subdivision may not be construed to provide any exemption



1 from any tax levied by a city, county, or city and county pursuant  
2 to Section 7284.3, or any successor to that section.

3 (2) For purposes of this ~~subdivision:~~

4 (A) ~~“Qualified subdivision, “qualified residence” means a~~  
5 ~~primary residence, not serviced by gas mains and pipes.~~

6 (B) ~~“Qualified person” means any person engaged in a line of~~  
7 ~~business described in Codes 0111 to 0291, inclusive, of the~~  
8 ~~Standard Industrial Classification Manual published by the United~~  
9 ~~States Office of Management and Budget, 1987 Edition, and any~~  
10 ~~other person that assists that person in the lines of business~~  
11 ~~described in this paragraph in producing and harvesting~~  
12 ~~agricultural products.~~

13 (c) Water, when sold to an individual in bulk quantities of 50  
14 gallons or more, for general household use in his or her residence  
15 if the residence is located in an area not serviced by mains, lines  
16 or pipes.

17 (d) Exhaust steam, waste steam, heat, or resultant energy,  
18 produced in connection with cogeneration technology, as defined  
19 in Section 25134 of the Public Resources Code.

20 (e) ~~The exemptions provided by subdivision (b) shall be~~  
21 ~~effective starting September 1, 2001, unless the State Board of~~  
22 ~~Equalization determines that implementation by that date is not~~  
23 ~~feasible, in which case the board shall, on or before that date, report~~  
24 ~~to the Legislature regarding the reasons why it must delay~~  
25 ~~implementation, and shall thereafter implement these exemptions~~  
26 ~~no later than October 1, 2001.~~

27 *SEC. 2. Section 6356.5 of the Revenue and Taxation Code is*  
28 *repealed.*

29 ~~6356.5. (a) There are exempted from the taxes imposed by~~  
30 ~~this part the gross receipts from the sale of, and the storage and use~~  
31 ~~of, or other consumption in this state of, farm equipment and~~  
32 ~~machinery, and the parts thereof, purchased for use by a qualified~~  
33 ~~person to be used primarily in producing and harvesting~~  
34 ~~agricultural products.~~

35 (b) For purposes of this section, both of the following shall  
36 apply:

37 (1) ~~“Qualified person” means any person engaged in a line of~~  
38 ~~business described in Codes 0111 to 0291, inclusive, of the~~  
39 ~~Standard Industrial Classification Manual published by the United~~  
40 ~~States Office of Management and Budget, 1987 Edition, and any~~



1 other person that uses farm equipment and machinery to assist this  
2 person in the lines of business described in this paragraph in  
3 producing and harvesting agricultural products.

4 (2) “Farm equipment and machinery” means implements of  
5 husbandry, as defined in Section 411.

6 (e) (1) Notwithstanding any provision of the Bradley-Burns  
7 Uniform Local Sales and Use Tax Law (Part 1.5 (commencing  
8 with Section 7200)) or the Transactions and Use Tax Law (Part 1.6  
9 (commencing with Section 7251)), the exemption established by  
10 this section does not apply with respect to any tax levied by a  
11 county, city, or district pursuant to, or in accordance with, either  
12 of those laws.

13 (2) Notwithstanding subdivision (a), the exemption  
14 established by this section does not apply with respect to any tax  
15 levied pursuant to Sections 6051.2 and 6201.2, or pursuant to  
16 Section 35 of Article XIII of the California Constitution.

17 (d) The exemption provided by this section shall be effective  
18 starting September 1, 2001, unless the State Board of Equalization  
19 determines that implementation by that date is not feasible, in  
20 which case the board shall, on or before that date, report to the  
21 Legislature regarding the reasons why it must delay  
22 implementation, and shall thereafter implement the exemption  
23 provided by this section no later than October 1, 2001.

24 *SEC. 3. Section 6356.6 of the Revenue and Taxation Code is*  
25 *repealed.*

26 6356.6. (a) There are exempted from the taxes imposed by  
27 this part the gross receipts from the sale of, and the storage and use  
28 of, or other consumption in this state of, equipment and machinery  
29 designed primarily for off-road use in commercial timber  
30 harvesting operations, and the parts thereof, that is purchased for  
31 use by a qualified person to be used primarily in harvesting timber.

32 (b) The State Board of Equalization may adopt emergency  
33 regulations to specify equipment and machinery exempted by this  
34 section, and may revise those regulations from time to time.

35 (c) For purposes of this section, “qualified person” means any  
36 person engaged in commercial timber harvesting.

37 (d) (1) Notwithstanding any provision of the Bradley-Burns  
38 Uniform Local Sales and Use Tax Law (Part 1.5 (commencing  
39 with Section 7200)) or the Transactions and Use Tax Law (Part 1.6  
40 (commencing with Section 7251)), the exemption established by



1 ~~this section does not apply with respect to any tax levied by a~~  
2 ~~county, city, or district pursuant to, or in accordance with, either~~  
3 ~~of those laws.~~

4 ~~(2) Notwithstanding subdivision (a), the exemption~~  
5 ~~established by this section does not apply with respect to any tax~~  
6 ~~levied pursuant to Section 6051.2 and 6201.2, or pursuant to~~  
7 ~~Section 35 of Article XIII of the California Constitution.~~

8 ~~(e) The exemption provided by this section shall be effective~~  
9 ~~starting September 1, 2001, unless the State Board of Equalization~~  
10 ~~determines that implementation by that date is not feasible, in~~  
11 ~~which case the board shall, on or before that date, report to the~~  
12 ~~Legislature regarding the reasons why it must delay~~  
13 ~~implementation, and shall thereafter implement the exemption~~  
14 ~~provided by this section no later than October 1, 2001.~~

15 *SEC. 4. Section 6357.1 of the Revenue and Taxation Code is*  
16 *repealed.*

17 ~~6357.1. (a) There are exempted from the taxes imposed by~~  
18 ~~this part, the gross receipts from the sale in this state of, and the~~  
19 ~~storage, use, or other consumption in this state of, diesel fuel used~~  
20 ~~in farming activities and food processing. This section shall be~~  
21 ~~implemented as soon as possible, but in no case later than~~  
22 ~~September 1, 2001.~~

23 ~~(b) For purposes of this section, "farming activities" has the~~  
24 ~~same meaning as "farming business" as set forth in Section 263A~~  
25 ~~of the Internal Revenue Code. "Farming activities" also includes~~  
26 ~~the transportation and delivery of farm products to the~~  
27 ~~marketplace.~~

28 ~~(c) The exemption established by this section does not apply~~  
29 ~~with respect to either of the following:~~

30 ~~(1) A tax imposed under the Bradley Burns Uniform Local~~  
31 ~~Sales and Use Tax Law (Part 1.5 (commencing with Section~~  
32 ~~7200)) or in accordance with the Transactions and Use Tax Law~~  
33 ~~(Part 1.6 (commencing with Section 7251)).~~

34 ~~(2) A tax imposed under Section 6051.2 or 6201.2, or under~~  
35 ~~Section 35 of Article XIII of the California Constitution.~~

36 *SEC. 5. Section 6358.5 of the Revenue and Taxation Code is*  
37 *repealed.*

38 ~~6358.5. (a) (1) There are exempted from the taxes imposed~~  
39 ~~by this part, the gross receipts from the sale in this state of, and the~~



1 ~~storage, use, or other consumption in this state of, any racehorse~~  
2 ~~breeding stock.~~

3 ~~(2) For purposes of this section “racehorse breeding stock”~~  
4 ~~means a horse that is capable of reproduction and for which the~~  
5 ~~purchaser states that it is the purchaser’s sole intent to use the horse~~  
6 ~~for breeding purposes.~~

7 ~~(b) (1) Notwithstanding any provision of the Bradley Burns~~  
8 ~~Uniform Local Sales and Use Tax Law (Part 1.5 (commencing~~  
9 ~~with Section 7200)) or the Transactions and Use Tax Law (Part 1.6~~  
10 ~~(commencing with Section 7251)), the exemption established by~~  
11 ~~this section does not apply with respect to any tax levied by a~~  
12 ~~county, city, or district pursuant to, or in accordance with, either~~  
13 ~~of those laws.~~

14 ~~(2) The exemption established by this section does not apply~~  
15 ~~with respect to any tax levied pursuant to either Section 6051.2 or~~  
16 ~~6201.2, or pursuant to Section 35 of Article XIII of the California~~  
17 ~~Constitution.~~

18 ~~(e) The exemption provided by this section shall be effective~~  
19 ~~starting September 1, 2001, unless the State Board of Equalization~~  
20 ~~determines that implementation by that date is not feasible, in~~  
21 ~~which case the board shall, on or before that date, report to the~~  
22 ~~Legislature regarding the reasons why it must delay~~  
23 ~~implementation, and shall thereafter implement the exemption~~  
24 ~~provided by this section no later than October 1, 2001.~~

25 *SEC. 6. Section 7105 is added to the Revenue and Taxation*  
26 *Code, to read:*

27 *7105. The State Board of Equalization, in consultation with*  
28 *the Department of Finance, shall estimate the annual increase in*  
29 *the amount of sales and use tax revenue that is attributable in 2004*  
30 *and each year thereafter to the repeal of the sales and use tax*  
31 *exemptions by the act adding this section. The board shall provide*  
32 *the estimate to the Employment Development Department on or*  
33 *before January 15 of the year next following the year for which the*  
34 *estimate is made.*

35 *SEC. 7. Section 17053.15 is added to the Revenue and*  
36 *Taxation Code, to read:*

37 *17053.15. (a) For each taxable year beginning on or after*  
38 *January 1, 2004, there shall be allowed as a credit against the “net*  
39 *tax,” as defined in Section 17039, to a qualified taxpayer who*



1 provides health care coverage to his or her agricultural  
2 employees.

3 (b) The amount of the credit allowed to a qualified taxpayer  
4 under subdivision (a) shall be an amount allocated to that  
5 taxpayer by the Employment Development Department pursuant  
6 to subdivision (d).

7 (c) For purposes of this section:

8 (1) "Agricultural employee" means an employee as defined in  
9 subdivision (b) of Section 1140.4 of the Labor Code.

10 (2) "Qualified health care coverage" means health care  
11 coverage equivalent to a health care service plan under the  
12 Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2  
13 (commencing with Section 1340) of Division 2 of the Health and  
14 Safety Code), or to a plan that would qualify under the Employee  
15 Retirement Income Security Act of 1974 (P.L. 93-406), as  
16 amended, and provides substantially the same minimum benefits  
17 as required under the Knox-Keene Health Care Service Plan Act  
18 of 1975.

19 (3) "Qualified taxpayer" means a taxpayer who either employs  
20 agricultural employees directly or is a labor contractor that  
21 employs agricultural employees for use by farmers, who does both  
22 of the following:

23 (A) Provides those employees with qualified health care  
24 coverage in an amount equal to at least 80 percent of the cost of  
25 that coverage.

26 (B) Applies to the Employment Development Department, in  
27 the form and manner prescribed by the department, pursuant to  
28 subdivision (d) for the credit allowed pursuant to this section. A  
29 qualified taxpayer will be eligible for the credit for a taxable year  
30 only if a completed application for that taxable year is filed with  
31 the Employment Development Department on or before the  
32 January 31 next following the taxable year for which the credit is  
33 claimed.

34 (d) The Employment Development Department shall do all of  
35 the following:

36 (1) Allocate an aggregate amount of tax credits to all qualified  
37 taxpayers under this section and Section 23608.15 for each  
38 taxable year beginning on or after January 1, 2004, in an amount  
39 equal to the estimated amount of the increase of sales and use tax  
40 revenue provided to the Employment Development Department



1 pursuant to Section 7105 for the calendar year that coincides with  
2 or ends within the taxable year.

3 (2) For each taxable year, allocate to each qualified taxpayer  
4 a credit amount computed as follows:

5 (A) Divide the amount paid or incurred during the taxable year  
6 by a qualified taxpayer for qualified health care coverage by the  
7 sum of all the amounts so paid or incurred by all qualified  
8 taxpayers during the taxable year for qualified health care  
9 coverage.

10 (B) Multiply the total amount to be allocated for the taxable  
11 year pursuant to paragraph (1) by the number calculated under  
12 subparagraph (A) and round the result to the nearest dollar.

13 (C) Allocate to the taxpayer a credit in an amount equal to the  
14 amount calculated under subparagraph (B).

15 (3) Provide written notification to each qualified taxpayer of  
16 his or her credit amount by February 28 of the next following  
17 taxable year for which the credit is claimed.

18 (4) Provide an annual list to the Franchise Tax Board,  
19 preferably on computer readable form, and in the form and manner  
20 agreed upon by the Franchise Tax Board and the Employment  
21 Development Department, of qualified taxpayers and amount of  
22 credit allocated to each.

23 (5) Notify all known qualified taxpayers regarding the  
24 availability of the credit.

25 (6) Send each known qualified taxpayer an application to  
26 participate in the credit allocation for each taxable year to which  
27 this section applies.

28 (7) Promulgate rules or regulations as deemed necessary to  
29 implement its duties under this section.

30 (e) In the case where the credit allowed by this section exceeds  
31 the "net tax," the excess may be carried over to reduce the "net  
32 tax" in the following year; and the succeeding five years if  
33 necessary, until the credit is exhausted.

34 (f) Any taxpayer that willfully fails to supply any information  
35 under this section with the intent to evade any tax imposed by this  
36 part, or who, willfully and with like intent, makes, renders, signs,  
37 or verifies any false statement or application under this section or  
38 supplies any false or fraudulent information under this section, is  
39 punishable as provided by Section 19706, except that the fine



1 *imposed may be up to treble the amount specified by Section*  
2 *19706.*

3 *SEC. 8. Section 23608.15 is added to the Revenue and*  
4 *Taxation Code, to read:*

5 *23608.15. (a) For each taxable year beginning on or after*  
6 *January 1, 2004, there shall be allowed as a credit against the*  
7 *“tax,” as defined in Section 23036, to a qualified taxpayer who*  
8 *provides health care coverage to its agricultural employees.*

9 *(b) The amount of the credit allowed to a qualified taxpayer*  
10 *under by subdivision (a) shall be an amount allocated to that*  
11 *taxpayer by the Employment Development Department pursuant*  
12 *to subdivision (d).*

13 *(c) For purposes of this section:*

14 *(1) “Agricultural employee” means an employee as defined in*  
15 *subdivision (b) of Section 1140.4 of the Labor Code.*

16 *(2) “Qualified health care coverage” means health care*  
17 *coverage equivalent to a health care service plan under the*  
18 *Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2*  
19 *(commencing with Section 1340) of Division 2 of the Health and*  
20 *Safety Code), or to a plan that would qualify under the Employee*  
21 *Retirement Income Security Act of 1974 (P.L. 93-406), as*  
22 *amended, and provides substantially the same minimum benefits*  
23 *as required under the Knox-Keene Health Care Service Plan Act*  
24 *of 1975.*

25 *(3) “Qualified taxpayer” means a taxpayer who either employs*  
26 *agricultural employees directly or is a labor contractor that*  
27 *employs agricultural employees for use by farmers, who does both*  
28 *of the following:*

29 *(A) Provides those employees with qualified health care*  
30 *coverage in an amount equal to at least 80 percent of the cost of*  
31 *that coverage.*

32 *(B) Applies to the Employment Development Department, in*  
33 *the form and manner prescribed by the department, pursuant to*  
34 *subdivision (d) for the credit allowed pursuant to this section. A*  
35 *qualified taxpayer will be eligible for the credit for a taxable year*  
36 *only if a completed application for that taxable year is filed with*  
37 *the Employment Development Department on or before the*  
38 *January 31 next following the taxable year for which the credit is*  
39 *claimed.*



- 1     (d) *The Employment Development Department shall do all of*  
2 *the following:*
- 3     (1) *Allocate an aggregate amount of tax credits to all qualified*  
4 *taxpayers under this section and Section 17053.15 for each*  
5 *taxable year beginning on or after January 1, 2004, in an amount*  
6 *equal to the estimated amount of the increase of sales and use tax*  
7 *revenue provided to the Employment Development Department*  
8 *pursuant to Section 7105 for the calendar year that coincides with*  
9 *or ends within the taxable year.*
- 10    (2) *For each taxable year, allocate to each qualified taxpayer*  
11 *a credit amount computed as follows:*
- 12    (A) *Divide the amount paid or incurred during the taxable year*  
13 *by the qualified taxpayer for qualified health care coverage by the*  
14 *sum of all the amounts so paid or incurred by all qualified*  
15 *taxpayers during the taxable year for qualified health care*  
16 *coverage.*
- 17    (B) *Multiply the total amount to be allocated for the taxable*  
18 *year pursuant to paragraph (1) by the number calculated under*  
19 *subparagraph (A) and round the result to the nearest dollar.*
- 20    (C) *Allocate to the taxpayer a credit in an amount equal to the*  
21 *amount calculated under subparagraph (B).*
- 22    (3) *Provide written notification to each qualified taxpayer of its*  
23 *credit amount by the February 28 next following the taxable year*  
24 *for which the credit is claimed.*
- 25    (4) *Provide an annual list to the Franchise Tax Board,*  
26 *preferably on computer readable form, and in the form and manner*  
27 *agreed upon by the Franchise Tax Board and the Employment*  
28 *Development Department, of qualified taxpayers and amount of*  
29 *credit allocated to each.*
- 30    (5) *Notify all known qualified taxpayers regarding the*  
31 *availability of the credit.*
- 32    (6) *Send each known qualified taxpayer an application to*  
33 *participate in the credit allocation for each taxable year to which*  
34 *this section applies.*
- 35    (7) *Promulgate rules or regulations as deemed necessary to*  
36 *implement its duties under this section.*
- 37    (e) *In the case where the credit allowed by this section exceeds*  
38 *the “tax,” the excess may be carried over to reduce the “tax” in*  
39 *the following year, and the succeeding five years if necessary, until*  
40 *the credit is exhausted.*



1     (f) Any taxpayer that willfully fails to supply any information  
2 under this section with the intent to evade any tax imposed by this  
3 part, or who, willfully and with like intent, makes, renders, signs,  
4 or verifies any false statement or application under this section or  
5 supplies any false or fraudulent information under this section, is  
6 punishable as provided by Section 19706, except that the fine  
7 imposed may be up to treble the amount specified by Section  
8 19706.

9     SEC. 9. This act provides for a tax levy within the meaning of  
10 Article IV of the Constitution and shall go into immediate effect.  
11 However, Sections 1 to 5, inclusive, of this act shall become  
12 operative on January 1, 2004.

