

AMENDED IN ASSEMBLY MAY 16, 2007

AMENDED IN ASSEMBLY MAY 1, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 287**

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**Introduced by Assembly Member Nava**  
*(Coauthors: Assembly Members Dymally, Garcia, and Portantino)*  
*(Coauthor: Senator Runner)*

February 9, 2007

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An act to add *and repeal* Sections 17053.36 and 23636-~~to~~ of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 287, as amended, Nava. Personal income and corporation taxes: credits: freeze relief: wages.

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

This bill would additionally authorize a tax credit for each taxable year beginning on or after ~~January 1, 2007~~, *February 1, 2006*, and before January 1, 2009, to a qualified taxpayer, as defined, who is an agricultural employer, as defined, whose trade or business was reduced by over 50% in a county that had a state of emergency, as declared by the Governor, as a result of extreme low temperatures and freezing conditions that began on January 11, 2007, in an amount equal to 40% of the amount of wages paid to a qualified employee, as defined.

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

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 17053.36 is added to the Revenue and  
2 Taxation Code, to read:  
3 17053.36. (a) For each taxable year beginning on or after  
4 ~~January 1, 2007, February 1, 2006,~~ and before January 1, 2009,  
5 there shall be allowed to a qualified taxpayer as a credit against  
6 the “net tax,” as defined by Section 17039, an amount equal to 40  
7 percent of the amount of wages paid to each qualified employee.  
8 ~~(b) The credit under this section shall not apply to wages paid~~  
9 ~~in excess of six thousand dollars (\$6,000) during a taxable year~~  
10 ~~by a qualified taxpayer to the same individual.~~  
11 *(b) (1) The maximum credit allowable pursuant to this section*  
12 *shall not exceed a total of two thousand four hundred dollars*  
13 *(\$2,400) during a taxable year by a qualified taxpayer at the*  
14 *quarterly rate set forth in paragraph (2).*  
15 *(2) One-quarter of the amount specified in paragraph (1) will*  
16 *be allowable for each quarter in which the qualified taxpayer*  
17 *employs the qualified employee, for at least one half the quarter,*  
18 *for each quarter beginning after March 31, 2007.*  
19 (c) For purposes of this section:  
20 (1) “Qualified county” means a county that is included in the  
21 state of emergency, as declared by the Governor, as a result of  
22 extreme low temperatures and freezing conditions that began on  
23 January 11, 2007.  
24 (2) “Qualified employee” means an agricultural employee, *as*  
25 *defined in Section 1140.4 of the Labor Code, of a qualified taxpayer*  
26 ~~whose principal place of employment on January 12, 2007, with~~  
27 ~~the qualified taxpayer was in a qualified county.~~ *qualified taxpayer,*  
28 *who performed services of employment at a rate equivalent to at*  
29 *least thirty-five hours a week for the period beginning January*  
30 *12, 2007, through March 31, 2007, and continuously thereafter,*  
31 *with the qualified taxpayer in a qualified county.*  
32 (3) (A) “Qualified taxpayer” means any agricultural employer,  
33 as defined in Section 1140.4 of the Labor Code, in a qualified  
34 county whose ~~trade or business in that qualified county was reduced~~  
35 ~~by more than 50 percent, as claimed on the statement of loss forms~~

1 ~~submitted by the qualified taxpayer to the qualified taxpayer's~~  
2 ~~respective county agricultural commissioner, on any day on and~~  
3 ~~agricultural operations in that qualified county were reduced by~~  
4 ~~more than 50 percent, as determined in subparagraph (B), on any~~  
5 ~~day beginning on and after January 12, 2007, as a result of damage~~  
6 ~~sustained in connection with the extreme low temperatures and~~  
7 ~~freezing conditions that began on January 11, 2007, for which a~~  
8 ~~state of emergency was declared by the Governor.~~

9 *(B) The reduction in agricultural operations shall be the*  
10 *measure of the difference between profit or loss attributable to*  
11 *California agricultural operations reported on a taxpayer's federal*  
12 *Schedule F for the taxable year that includes January 12, 2007,*  
13 *and the average reported profit or loss reported by the taxpayer*  
14 *on all federal Schedules F filed by the taxpayer for the preceding*  
15 *five taxable years, without regard to Section 17207.*

16 (d) If the credit allowed by this section exceeds the "net tax,"  
17 the excess may be carried over to reduce the "net tax" in the  
18 following year, and in the succeeding eight years, if necessary,  
19 until the credit is exhausted.

20 (e) *No other credit may be allowed under this part for any cost*  
21 *for which a credit is allowed by this section. Any deduction for*  
22 *wages paid to the qualified employee shall be reduced by the*  
23 *amount of the credit.*

24 (f) *This section shall remain in effect only until December 1,*  
25 *2009, and as of that date is repealed.*

26 SEC. 2. Section 23636 is added to the Revenue and Taxation  
27 Code, to read:

28 23636. (a) For each taxable year beginning on or after ~~January~~  
29 ~~1, 2007, February 1, 2006,~~ and before January 1, 2009, there shall  
30 be allowed to a qualified taxpayer as a credit against the "tax," as  
31 defined by Section 23036, an amount equal to 40 percent of the  
32 amount of wages paid to each qualified employee.

33 ~~(b) The credit under this section shall not apply to wages paid~~  
34 ~~in excess of six thousand dollars (\$6,000) during a taxable year~~  
35 ~~by a qualified taxpayer to the same individual.~~

36 (b) (1) *The maximum credit allowable pursuant to this section*  
37 *shall not exceed a total of two thousand four hundred dollars*  
38 *(\$2,400) during a taxable year by a qualified taxpayer at the*  
39 *quarterly rate set forth in paragraph (2).*

1 (2) *One-quarter of the amount specified in paragraph (1) will*  
2 *be allowable for each quarter in which the qualified taxpayer*  
3 *employs the qualified employee, for at least one half the quarter,*  
4 *for each quarter beginning after March 31, 2007.*

5 (c) For purposes of this section:

6 (1) “Qualified county” means a county that is included in the  
7 state of emergency, as declared by the Governor, as a result of  
8 extreme low temperatures and freezing conditions that began on  
9 January 11, 2007.

10 (2) “Qualified employee” means an agricultural employee, *as*  
11 *defined in Section 1140.4 of the Labor Code, of a qualified taxpayer*  
12 ~~*whose principal place of employment on January 12, 2007, with*~~  
13 ~~*the qualified taxpayer was in a qualified county.*~~ *qualified taxpayer,*  
14 *who performed services of employment at a rate equivalent to at*  
15 *least thirty-five hours a week for the period beginning January*  
16 *12, 2007, through March 31, 2007, and continuously thereafter,*  
17 *with the qualified taxpayer in a qualified county.*

18 (3) (A) “Qualified taxpayer” means any agricultural employer,  
19 as defined in Section 1140.4 of the Labor Code, in a qualified  
20 county ~~*whose trade or business in that qualified county was reduced*~~  
21 ~~*by more than 50 percent, as claimed on the statement of loss forms*~~  
22 ~~*submitted by the qualified taxpayer to qualified taxpayer’s*~~  
23 ~~*respective county agricultural commissioner, on any day on and*~~  
24 ~~*agricultural operations in that qualified county were reduced by*~~  
25 ~~*more than 50 percent, as determined in subparagraph (B), on any*~~  
26 ~~*day beginning on and after January 12, 2007, as a result of damage*~~  
27 ~~*sustained in connection with the extreme low temperatures and*~~  
28 ~~*freezing conditions that began on January 11, 2007, for which a*~~  
29 ~~*state of emergency was declared by the Governor.*~~

30 (B) *The reduction in agricultural operations shall be the*  
31 *measure of the difference between profit or loss attributable to*  
32 *California agricultural operations reported on a taxpayer’s federal*  
33 *Schedule F for the taxable year that includes January 12, 2007,*  
34 *and the average reported profit or loss reported by the taxpayer*  
35 *on all federal Schedules F filed by the taxpayer for the preceding*  
36 *five taxable years, without regard to Section 24347.5.*

37 (d) If the credit allowed by this section exceeds the “tax,” the  
38 excess may be carried over to reduce the “tax” in the following  
39 year, and in the succeeding eight years, if necessary, until the credit  
40 is exhausted.

1     *(e) No other credit may be allowed under this part for any cost*  
2     *for which a credit is allowed by this section. Any deduction for*  
3     *wages paid to the qualified employee shall be reduced by the*  
4     *amount of the credit.*

5     *(f) This section shall remain in effect only until December 1,*  
6     *2009, and as of that date is repealed.*

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

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