

Introduced by Senator Florez

January 17, 2007

An act to add Sections 17053.63 and 23663 to the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 73, as introduced, Florez. Income and corporation taxes: credit: biodiesel fuel.

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

This bill would, under both laws, for taxable years beginning on or after January 1, 2008, allow a refundable tax credit in an amount equal to a specified amount for each gallon of biodiesel fuel, as defined, produced or manufactured by a qualified producer at any facility located in this state to be reimbursed on a quarterly basis, as provided.

This bill would provide that refunds of this credit shall be continuously appropriated from the State Highway Account in the State Transportation Funds.

This bill would take effect immediately as a tax levy.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

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

- 1 SECTION 1. Section 17053.63 is added to the Revenue and
- 2 Taxation Code, to read:

1 17053.63. (a) For each taxable year beginning on or after
2 January 1, 2008, there shall be allowed a credit against the “net
3 tax,” as defined by Section 17039, an amount equal to thirty cents
4 (\$0.30) for each gallon of biodiesel fuel produced or manufactured
5 during the taxable year by a qualified producer at any facility
6 located in this state.

7 (b) The credit authorized under this section and Section 23663
8 shall not exceed an aggregate amount of thirty million gallons per
9 taxable year as produced or manufactured by all qualified producers
10 who receive a credit under this section.

11 (c) For purposes of this section:

12 (1) “Biodiesel fuel” means a renewable, biodegradable, mono
13 alkyl ester combustible liquid fuel derived from vegetable oils or
14 animal fats that meets the American Society for Testing and
15 Materials specification D6751-02 for biodiesel fuel (B100) blend
16 stock for distillate fuels.

17 (2) “Facility” means a qualified producer’s refinery located in
18 California that produces or manufactures biodiesel fuel.

19 (3) “Qualified producer” means any person who owns or
20 operates a facility and who is engaged in the production or
21 manufacture of biodiesel fuel at that facility.

22 (d) Not later than 25 days after the end of each calendar quarter,
23 each qualified producer shall submit any information as the
24 Franchise Tax Board or the Treasurer requires to the Franchise
25 Tax Board to substantiate the total amount of biodiesel fuel
26 produced or manufactured by the qualified producer for the
27 previous calendar quarter.

28 (e) In the case where the credit allowed by this section exceeds
29 the taxpayer’s liability computed under this part, the excess shall
30 be credited against other amounts due, if any, from the qualified
31 producer and the balance, if any, shall be refunded to the qualified
32 producer on a quarterly basis.

33 (f) The Franchise Tax Board shall submit a quarterly list, in a
34 form agreed upon by the Franchise Tax Board and the Treasurer,
35 to the Treasurer of those qualified producers that are eligible to
36 receive a refund under this section.

37 (g) Those amounts that are determined by the Treasurer to be
38 necessary to make the refunds required by this subdivision shall
39 be continuously appropriated from the State Highway Account,
40 notwithstanding Section 13340 of the Government Code,

1 commencing with the 2007–2008 fiscal year, but otherwise without
2 regard to fiscal years, to the Treasurer for the purpose of making
3 those refunds.

4 (h) The Franchise Tax Board shall prescribe all rules and
5 regulations necessary for the implementation of this section.

6 SEC. 2. Section 23663 is added to the Revenue and Taxation
7 Code, to read:

8 23663. (a) For each taxable year beginning on or after January
9 1, 2008, there shall be allowed a credit against the “tax,” as defined
10 by Section 23036, an amount equal to thirty cents (\$0.30) for each
11 gallon of biodiesel fuel produced or manufactured during the
12 taxable year by a qualified producer at any facility located in this
13 state.

14 (b) The credit authorized under this section and Section 1705363
15 shall not exceed an aggregate amount of thirty million gallons per
16 taxable year as produced or manufactured by all qualified producers
17 who receive a credit under this section.

18 (c) For purposes of this section:

19 (1) “Biodiesel fuel” means a renewable, biodegradable, mono
20 alkyl ester combustible liquid fuel derived from vegetable oils or
21 animal fats that meets the American Society for Testing and
22 Materials specification D6751-02 for biodiesel fuel (B100) blend
23 stock for distillate fuels.

24 (2) “Facility” means a qualified producer’s refinery located in
25 California that produces or manufactures biodiesel fuel.

26 (3) “Qualified producer” means any person who owns or
27 operates a facility and who is engaged in the production or
28 manufacture of biodiesel fuel at that facility.

29 (d) Not later than 25 days after the end of each calendar quarter,
30 each qualified producer shall submit any information as the
31 Franchise Tax Board or the Treasurer requires to the Franchise
32 Tax Board to substantiate the total amount of biodiesel fuel
33 produced or manufactured by the qualified producer for the
34 previous calendar quarter.

35 (e) In the case where the credit allowed by this section exceeds
36 the taxpayer’s liability computed under this part, the excess shall
37 be credited against other amounts due, if any, from the qualified
38 producer and the balance, if any, shall be refunded to the qualified
39 producer on a quarterly basis.

1 (f) The Franchise Tax Board shall submit a quarterly list, in a
2 form agreed upon by the Franchise Tax Board and the Treasurer,
3 to the Treasurer of those qualified producers that are eligible to
4 receive a refund under this section.

5 (g) Those amounts that are determined by the Treasurer to be
6 necessary to make the refunds required by this subdivision shall
7 be continuously appropriated from the State Highway Account,
8 notwithstanding Section 13340 of the Government Code,
9 commencing with the 2007–2008 fiscal year, but otherwise without
10 regard to fiscal years, to the Treasurer for the purpose of making
11 those refunds.

12 (h) The Franchise Tax Board shall prescribe all rules and
13 regulations necessary for the implementation of this section.

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