

AMENDED IN SENATE APRIL 13, 2009

**SENATE BILL**

**No. 425**

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**Introduced by Senator Simitian**

February 26, 2009

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~~An act to add Section 39611 to the Health and Safety Code, relating to air resources.~~ *An act to add Sections 17053.58, 17284, 23658, and 24343.1 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.*

LEGISLATIVE COUNSEL'S DIGEST

SB 425, as amended, Simitian. ~~Vehicle trip reduction.~~ *Personal and corporate income taxes: deductions: parking: credits: ridesharing expenses.*

*The Personal Income Tax Law and the Corporation Tax Law allow various deductions in computing the income that is subject to the taxes imposed by those laws. Existing law allows an employer to deduct its expenses in carrying out a parking subsidy and a parking cash-out program, as defined, for employees.*

*This bill would disallow a deduction for expenses of specified employers for parking subsidies unless all employees provided with a parking subsidy are offered a parking cash-out program in accordance with a specified statute.*

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

*This bill would authorize a credit under both those laws, for taxable years beginning on or after January 1, 2009, in an amount not to exceed \$1,500 for qualified commute reduction expenditures, as defined, for specified small-business taxpayers.*

*This bill would take effect immediately as a tax levy.*

~~Existing law creates the State Air Resources Board, with various powers and duties relative to reduction of air pollution. Existing law creates the Department of Transportation, with various powers and duties relative to transportation planning.~~

~~This bill would require the State Air Resources Board, in coordination with the Department of Transportation, to develop a program for employers employing more than 100 individuals to reduce the number of single-occupant vehicle trips, as specified.~~

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 17053.58 is added to the Revenue and  
2     Taxation Code, to read:  
3     17053.58. (a) For taxable years beginning on or after January  
4     1, 2009, there shall be allowed to a taxpayer as a credit against  
5     the “net tax,” as defined in Section 17039, an amount equal to 80  
6     percent of the costs paid or incurred during the taxable year by  
7     the taxpayer for qualified commute reduction expenditures, not to  
8     exceed one thousand five hundred dollars (\$1,500).  
9     (b) For purposes of this section:  
10    (1) “Buspool” means 16 or more persons commuting on a daily  
11    basis to and from work by means of a vehicle with a seating  
12    arrangement designed to carry more than 15 adult passengers.  
13    (2) “Carpool” means two or more persons commuting on a  
14    daily basis to and from work by means of a vehicle with a seating  
15    arrangement designed to carry less than seven adults, including  
16    the driver.  
17    (3) “Employee” means a person employed by the taxpayer on  
18    a full-time basis, who performs, at a minimum, 30 hours per week  
19    for compensation.  
20    (4) “Private commuter bus” means a highway vehicle which  
21    meets all of the following criteria:  
22    (A) Has a seating capacity of at least seven adults, including  
23    the driver.  
24    (B) At least 50 percent of the mileage of which can be  
25    reasonably expected to be used for the purpose of transporting  
26    employees to and from work.

- 1 (C) *Is acquired by the taxpayer on or after the date of enactment*  
2 *of this section.*
- 3 (D) *With respect to which the taxpayer makes an election under*  
4 *this paragraph on his or her return for the taxable year in which*  
5 *the vehicle is placed in service.*
- 6 (5) *“Qualified commute reduction expenditure” means costs*  
7 *paid or incurred by the taxpayer for any of the following:*
- 8 (A) *Subsidizing employees commuting in vanpools.*
- 9 (B) *Subsidizing employees commuting in private commuter*  
10 *buses or buspools.*
- 11 (C) *Subsidizing monthly transit passes for its employees or for*  
12 *use by the employee’s dependents, except that no deduction shall*  
13 *be allowed for transit passes issued for the use of elementary and*  
14 *secondary school students.*
- 15 (D) *Subsidizing employees commuting in subscription taxipools.*
- 16 (E) *Subsidizing employees commuting in a carpool.*
- 17 (F) *Subsidizing employees commuting in a ferry.*
- 18 (G) *Providing free or subsidized parking to carpools, vanpools,*  
19 *or any other vehicle used in a ridesharing arrangement within*  
20 *California.*
- 21 (H) *Making facility improvements to encourage employees, for*  
22 *the purpose of commuting from their homes, to use bicycles.*
- 23 (I) *Making facility improvements to encourage employees to,*  
24 *or subsidizing employees who already use, an alternative*  
25 *transportation method, other than a method specified in this*  
26 *paragraph, that reduces the use of a motor vehicle by a single*  
27 *occupant to travel to or from that employee’s place of employment.*
- 28 (J) *Subsidizing employees who travel to or from a telecommuting*  
29 *facility.*
- 30 (6) *“Subscription taxipool” means a type of service in which*  
31 *employers or groups of employees contract with a public or private*  
32 *taxi operator to provide daily commuter service for a group of*  
33 *preassembled subscribers on a prepaid or daily fare basis*  
34 *following a relatively fixed route and schedule tailored to meet*  
35 *the needs of the subscribers.*
- 36 (7) *“Taxpayer” means a person or entity engaged in a trade or*  
37 *business within California who employs a maximum of 20*  
38 *employees. “Taxpayer” shall not include the state, a county, a*  
39 *city, a city and county, a special district as defined in Section*  
40 *12712 of the Government Code, a school district, a community*

1 college district, the California State University system, or the  
2 University of California.

3 (8) “Transit” means transportation service for use by the  
4 general public that utilizes buses, railcars, or ferries with a seating  
5 capacity of 16 or more persons.

6 (9) “Transit pass” means any purchase of transit rides that  
7 entitles the holder to any number of transit rides to and from the  
8 workplace, whether at a discount rate or the base fare rate.

9 (10) “Vanpool” means seven or more persons commuting on  
10 a daily basis to and from work by means of a vehicle with a seating  
11 arrangement designed to carry 7 to 15 adults, including the driver;  
12 that is used to transport those persons who commute to and from  
13 work on a regular basis.

14 (c) This credit shall be in lieu of any other deduction which the  
15 taxpayer may otherwise claim pursuant to this part with respect  
16 to the costs paid or incurred during the taxable year by the  
17 taxpayer for qualified commute reduction expenditures.

18 (d) The aggregate amount of credit that may be allowed in any  
19 fiscal year pursuant to this section and Section 23658 shall be an  
20 amount equal to the aggregate revenue increase attributable in  
21 that same fiscal year to Sections 17284 and 24343.1.

22 (e) (1) The Franchise Tax Board shall allocate the credit to  
23 the taxpayer on a first-come, first-served basis.

24 (2) The taxpayer shall claim the credit on a timely filed original  
25 return.

26 (3) The date a return is received shall be determined by the  
27 Franchise Tax Board.

28 (4) The determinations of the Franchise Tax Board with respect  
29 to the date a return is received for purposes of this subdivision  
30 may not be reviewed in any administrative or judicial proceeding.

31 (f) The Franchise Tax Board may prescribe rules, guidelines,  
32 or procedures necessary or appropriate to carry out the purposes  
33 of this section, including any guidelines regarding the allocation  
34 of the credit allowed under this section. Chapter 3.5 (commencing  
35 with Section 11340) of Part 1 of Division 3 of Title 2 of the  
36 Government Code does not apply to any rule, guideline, or  
37 procedure prescribed by the Franchise Tax Board pursuant to this  
38 section.

39 (g) In the case where a credit allowed under this section exceeds  
40 the “net tax,” the excess credit may be carried over to reduce the

1 “net tax” in the following taxable year, and succeeding taxable  
2 years, if necessary, until the credit has been exhausted.

3 SEC. 2. Section 17284 is added to the Revenue and Taxation  
4 Code, to read:

5 17284. (a) For taxable years beginning on or after January  
6 1, 2009, no deduction is allowed under this part for amounts paid  
7 or incurred by an employer subject to Section 43845 of the Health  
8 and Safety Code for parking subsidies unless all employees of the  
9 employer provided with a parking subsidy are offered a parking  
10 cash-out program in accordance with Section 43845 of the Health  
11 and Safety Code.

12 (b) For purposes of this section, “parking subsidy” and  
13 “parking cash-out program” have the same meaning as defined  
14 in Section 43845 of the Health and Safety Code.

15 SEC. 3. Section 23658 is added to the Revenue and Taxation  
16 Code, to read:

17 23658. (a) For taxable years beginning on or after January  
18 1, 2009, there shall be allowed to a taxpayer as a credit against  
19 the “tax,” as defined in Section 23036, an amount equal to 80  
20 percent of the costs paid or incurred during the taxable year by  
21 the taxpayer for qualified commute reduction expenditures, not to  
22 exceed one thousand five hundred dollars (\$1,500).

23 (b) For purposes of this section:

24 (1) “Buspool” means 16 or more persons commuting on a daily  
25 basis to and from work by means of a vehicle with a seating  
26 arrangement designed to carry more than 15 adult passengers.

27 (2) “Carpool” means two or more persons commuting on a  
28 daily basis to and from work by means of a vehicle with a seating  
29 arrangement designed to carry less than seven adults, including  
30 the driver.

31 (3) “Employee” means a person employed by the taxpayer on  
32 a full-time basis, who performs, at a minimum, 30 hours per week  
33 for compensation.

34 (4) “Private commuter bus” means a highway vehicle which  
35 meets all of the following criteria:

36 (A) Has a seating capacity of at least seven adults, including  
37 the driver.

38 (B) At least 50 percent of the mileage of which can be  
39 reasonably expected to be used for the purpose of transporting  
40 employees to and from work.

- 1 (C) *Is acquired by the taxpayer on or after the date of enactment*  
2 *of this section.*
- 3 (D) *With respect to which the taxpayer makes an election under*  
4 *this paragraph on his or her return for the taxable year in which*  
5 *the vehicle is placed in service.*
- 6 (5) *“Qualified commute reduction expenditure” means costs*  
7 *paid or incurred by the taxpayer for any of the following:*
- 8 (A) *Subsidizing employees commuting in vanpools.*
- 9 (B) *Subsidizing employees commuting in private commuter*  
10 *buses or buspools.*
- 11 (C) *Subsidizing monthly transit passes for its employees or for*  
12 *use by the employee’s dependents, except that no deduction shall*  
13 *be allowed for transit passes issued for the use of elementary and*  
14 *secondary school students.*
- 15 (D) *Subsidizing employees commuting in subscription taxipools.*
- 16 (E) *Subsidizing employees commuting in a carpool.*
- 17 (F) *Subsidizing employees commuting in a ferry.*
- 18 (G) *Providing free or preferential parking to carpools, vanpools,*  
19 *or any other vehicle used in a ridesharing arrangement within*  
20 *California.*
- 21 (H) *Making facility improvements to encourage employees, for*  
22 *the purpose of commuting from their homes, to use bicycles.*
- 23 (I) *Making facility improvements to encourage employees to,*  
24 *or subsidizing employees who already use, an alternative*  
25 *transportation method, other than a method specified in this*  
26 *paragraph, that reduces the use of a motor vehicle by a single*  
27 *occupant to travel to or from that employee’s place of employment.*
- 28 (J) *Subsidizing employees who travel to or from a telecommuting*  
29 *facility.*
- 30 (6) *“Subscription taxipool” means a type of service in which*  
31 *employers or groups of employees contract with a public or private*  
32 *taxi operator to provide daily commuter service for a group of*  
33 *preassembled subscribers on a prepaid or daily fare basis*  
34 *following a relatively fixed route and schedule tailored to meet*  
35 *the needs of the subscribers.*
- 36 (7) *“Taxpayer” means a person or entity engaged in a trade or*  
37 *business within California who employs a maximum of 20*  
38 *employees. “Taxpayer” shall not include the state, a county, a*  
39 *city, a city and county, a special district as defined in Section*  
40 *12712 of the Government Code, a school district, a community*

1 college district, the California State University system, or the  
2 University of California.

3 (8) “Transit” means transportation service for use by the  
4 general public that utilizes buses, railcars, or ferries with a seating  
5 capacity of 16 or more persons.

6 (9) “Transit pass” means any purchase of transit rides that  
7 entitles the holder to any number of transit rides to and from the  
8 workplace, whether at a discount rate or the base fare rate.

9 (10) “Vanpool” means seven or more persons commuting on  
10 a daily basis to and from work by means of a vehicle with a seating  
11 arrangement designed to carry 7 to 15 adults, including the driver;  
12 that is used to transport those persons who commute to and from  
13 work on a regular basis.

14 (c) This credit shall be in lieu of any other deduction which the  
15 taxpayer may otherwise claim pursuant to this part with respect  
16 to the costs paid or incurred during the taxable year by the  
17 taxpayer for qualified commute reduction expenditures.

18 (d) The aggregate amount of credit that may be allowed in any  
19 fiscal year pursuant to this section and Section 17053.58 shall be  
20 an amount equal to the aggregate revenue increase attributable  
21 in that same fiscal year to Sections 17284 and 24343.1.

22 (e) (1) The Franchise Tax Board shall allocate the credit to  
23 the taxpayer on a first-come, first-served basis.

24 (2) The taxpayer shall claim the credit on a timely filed original  
25 return.

26 (3) The date a return is received shall be determined by the  
27 Franchise Tax Board.

28 (4) The determinations of the Franchise Tax Board with respect  
29 to the date a return is received for purposes of this subdivision  
30 may not be reviewed in any administrative or judicial proceeding.

31 (f) The Franchise Tax Board may prescribe rules, guidelines,  
32 or procedures necessary or appropriate to carry out the purposes  
33 of this section, including any guidelines regarding the allocation  
34 of the credit allowed under this section. Chapter 3.5 (commencing  
35 with Section 11340) of Part 1 of Division 3 of Title 2 of the  
36 Government Code does not apply to any rule, guideline, or  
37 procedure prescribed by the Franchise Tax Board pursuant to this  
38 section.

39 (g) In the case where a credit allowed under this section exceeds  
40 the “tax,” the excess credit may be carried over to reduce the

1 “tax” in the following taxable year, and succeeding taxable years,  
2 if necessary, until the credit has been exhausted.

3 SEC. 4. Section 24343.1 is added to the Revenue and Taxation  
4 Code, to read:

5 24343.1. (a) For taxable years beginning on or after January  
6 1, 2009, no deduction is allowed under this part for amounts paid  
7 or incurred by an employer subject to Section 43845 of the Health  
8 and Safety Code for parking subsidies unless all employees of the  
9 employer provided with a parking subsidy are offered a parking  
10 cash-out program in accordance with Section 43845 of the Health  
11 and Safety Code.

12 (b) For purposes of this section, “parking subsidy” and  
13 “parking cash-out program” have the same meaning as defined  
14 in Section 43845 of the Health and Safety Code.

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

17 SECTION 1. ~~Section 39611 is added to the Health and Safety~~  
18 ~~Code, to read:~~

19 ~~39611. The state board shall, in coordination with the~~  
20 ~~Department of Transportation, develop a program for employers~~  
21 ~~employing more than 100 individuals to do all of the following:~~

22 ~~(a) Collect information from employers and regional~~  
23 ~~transportation agencies on existing programs designed to reduce~~  
24 ~~the number of single-occupant vehicle trips.~~

25 ~~(b) Evaluate the effectiveness of the programs described in~~  
26 ~~subdivision (a).~~

27 ~~(c) Make information about the programs in subdivision (a) that~~  
28 ~~are effective available to employers and the general public on an~~  
29 ~~Internet Web site.~~

30 ~~(d) Develop additional incentives for employers to adopt~~  
31 ~~programs and practices that will help achieve a goal of reduction~~  
32 ~~from current levels of single-occupant vehicle trips by 25 percent~~  
33 ~~in 2015 and 33 percent in 2020.~~