

AMENDED IN SENATE APRIL 25, 2013

AMENDED IN SENATE APRIL 15, 2013

SENATE BILL

No. 355

Introduced by Senator Beall

February 20, 2013

An act to amend Sections 37002, 37005, 37006, 37012, 37013, 37015, 37016, 37021, 37034, 37038, and 37040 of the Public Resources Code, and to amend Sections 17053.30 and 23630 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 355, as amended, Beall. Conservation: tax credits.

The Natural Heritage Preservation Tax Credit Act of 2000 requires the Wildlife Conservation Board to implement a program under which property, as defined, may be contributed to the state, any local government, as defined, or to any nonprofit organization designated by a local government, based on specified criteria, in order to provide for the protection of wildlife habitat, open space, and agricultural lands.

The Personal Income Tax Law and the Corporation Tax Law allow a credit against the taxes imposed by those laws in the amount equal to 55% of the fair market value of any qualified contribution, as defined, contributed during the taxable year pursuant to the Natural Heritage Preservation Tax Credit Act of 2000, as provided.

This bill would ~~instead require the Natural Resources Agency to implement the Natural Heritage Preservation Tax Credit Act of 2000 and would also~~ allow for the transfer of the credit allowed pursuant to the Natural Heritage Preservation Tax Credit Act of 2000 by the taxpayer to an unrelated party, as provided.

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 37002 of the Public Resources Code is~~
2 ~~amended to read:~~
3 ~~37002. As used in this division, the following terms have the~~
4 ~~following meanings:~~
5 ~~(a) “Agency” means the Natural Resources Agency created~~
6 ~~pursuant to Chapter 1 (commencing with Section 12800) of Part~~
7 ~~2.5 of Division 3 of the Government Code.~~
8 ~~(b) “Approval” or “approval for acceptance” means the agency’s~~
9 ~~approval of the granting of a tax credit for a donation of property~~
10 ~~pursuant to the program.~~
11 ~~(c) “Conservation easement” means a conservation easement,~~
12 ~~as defined by Section 815.1 of the Civil Code, that is contributed~~
13 ~~in perpetuity.~~
14 ~~(d) “Department” means any entity created by statute within~~
15 ~~the Natural Resources Agency and authorized to hold title to land,~~
16 ~~or the Natural Resources Agency.~~
17 ~~(e) (1) “Designated nonprofit organization” means a nonprofit~~
18 ~~organization qualified under Section 501(c)(3) of Title 26 of the~~
19 ~~United States Code that has as a principal purpose the conservation~~
20 ~~of land and water resources and that is designated by a local~~
21 ~~government or a department to accept property pursuant to this~~
22 ~~division in lieu of the local government or a department. In order~~
23 ~~to be eligible to receive a donation of property pursuant to this~~
24 ~~division, a nonprofit organization shall have experience in land~~
25 ~~conservation.~~
26 ~~(2) If bond funds are used pursuant to Chapter 7 (commencing~~
27 ~~with Section 37030), the designated nonprofit organization shall~~
28 ~~also meet the eligibility requirements specified in the relevant~~
29 ~~provision of the applicable bond act, for a nonprofit organization.~~
30 ~~(f) “Donee” means any of the following:~~
31 ~~(1) A department to which a donor has applied to donate~~
32 ~~property.~~
33 ~~(2) A local government that has submitted a joint application~~
34 ~~with a department requesting approval of a donation of property~~
35 ~~to that local government.~~

1 ~~(3) A local government that has submitted an application directly~~
2 ~~to the agency.~~

3 ~~(4) A designated nonprofit organization.~~

4 ~~(g) “Donor” means a property owner that donates, or submits~~
5 ~~an application to donate, property pursuant to the program.~~

6 ~~(h) (1) “Local government” means any city, county, city and~~
7 ~~county, or any district, as defined in Section 5902 or in Division~~
8 ~~26 (commencing with Section 35100), or any joint powers authority~~
9 ~~made up of one or more of those entities or those entities and~~
10 ~~departments.~~

11 ~~(2) If bond funds are used pursuant to Chapter 7 (commencing~~
12 ~~with Section 37030), “local government” also includes any other~~
13 ~~local governmental entity eligible to receive bond funds pursuant~~
14 ~~to the relevant provision of the applicable bond act.~~

15 ~~(i) “Program” means the Natural Heritage Preservation Tax~~
16 ~~Credit Program authorized by this division.~~

17 ~~(j) “Property” means any real property, and any perpetual~~
18 ~~interest therein, including land, conservation easements, and land~~
19 ~~containing water rights, as well as water rights.~~

20 ~~(k) “Secretary” means the Secretary of the Natural Resources~~
21 ~~Agency.~~

22 ~~SEC. 2. Section 37005 of the Public Resources Code is~~
23 ~~amended to read:~~

24 ~~37005. The Natural Resources Agency shall implement the~~
25 ~~program. The agency may request staff services from any~~
26 ~~department that submits an application and a proposal for a~~
27 ~~donation of property to the agency.~~

28 ~~SEC. 3. Section 37006 of the Public Resources Code is~~
29 ~~amended to read:~~

30 ~~37006. (a) (1) Under the program, upon approval by the~~
31 ~~agency, a donor may contribute qualified property to a donee and~~
32 ~~receive a tax credit for a portion of the value of the property, as~~
33 ~~provided in Sections 17053.30 and 23630 of the Revenue and~~
34 ~~Taxation Code.~~

35 ~~(2) If the agency approves a transfer of the credit pursuant to~~
36 ~~subdivision (f) of Section 17053.30 or Section 23630 of the~~
37 ~~Revenue and Taxation Code, the agency shall provide a certificate~~
38 ~~to the donor evidencing that approval, in a form satisfactory to the~~
39 ~~Franchise Tax Board.~~

~~(b) The agency shall adopt guidelines or regulations to implement the program, including procedures for applications submitted pursuant to Chapter 4 (commencing with Section 37010) and for the evaluation of properties proposed to be contributed pursuant to the program. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to the guidelines or regulations adopted pursuant to this section.~~

~~SEC. 4. Section 37012 of the Public Resources Code is amended to read:~~

~~37012. (a) Each donee shall evaluate applications submitted to it and prepare a plan for the board that sets forth the donee's priorities for acquisition of property that qualifies under the program. Consistent with the criteria established for the program, each donee may use its own priority lists and procedures in determining which properties or types of properties shall be given priority.~~

~~(b) Each donee or the agency may request that the applicant supply further information reasonably necessary to allow the donee or the agency to evaluate the proposed donation.~~

~~(c) The department may accept contributions of money from any taxpayer to pay or reimburse the costs of appraisal, escrow, title, and other transaction costs associated with the contribution of any particular property or set of properties, including any environmental assessments required by the department, and the costs of preparing any necessary management plan for the property or set of properties.~~

~~(d) Prior to acquiring an easement or other interest in land pursuant to this division, a public hearing shall be held by the donee, if the donee is a public agency, or by the agency if the donee is a designated nonprofit organization, in the local community. Notice shall be given by the donee or the agency to the county board of supervisors of the affected county, adjacent landowners, affected water districts, local municipalities, and other interested parties, as determined by the donee or the agency.~~

~~(e) When submitting a donation of qualified property to the agency for final approval, the donee shall provide the agency with the fair market value of the property proposed for acceptance, based on appraisals that have been reviewed and approved by the Department of General Services.~~

1 ~~SEC. 5.—~~Section 37013 of the Public Resources Code is amended
2 to read:

3 ~~37013.—~~The agency shall provide a list to the Joint Legislative
4 Budget Committee and the Franchise Tax Board, in the form and
5 manner determined by the Franchise Tax Board, of the names,
6 taxpayer identification numbers, including taxpayer identification
7 numbers of each partner or shareholder, as applicable, a legal
8 description of the donated property, and the total amount of the
9 tax credit approved for each donation.

10 ~~SEC. 6.—~~Section 37015 of the Public Resources Code is
11 amended to read:

12 ~~37015.—~~The agency shall approve only contributions of
13 properties that meet one or more of the following criteria:

14 (a) The property will help meet the goals of a habitat
15 conservation plan, multispecies conservation plan, natural
16 community conservation plan, or any other similar plan
17 subsequently authorized by statute that is designed to benefit native
18 species of plants, including, but not limited to, protecting forests,
19 old-growth trees, or oak woodlands, and animals and development.
20 In proposing and approving the acceptance of contributed property
21 pursuant to this subdivision, the recovery benefits for listed species,
22 the habitat value of the property, the value of the property as a
23 wildlife corridor, and similar habitat-related considerations shall
24 be the criteria on which the acceptance is based.

25 (b) The property will provide corridors or reserves for native
26 plants and wildlife that will help improve the recovery possibilities
27 of listed species and increase the chances that the species will
28 recover sufficiently to be eligible to be removed from the list, or
29 will help avoid the listing of species pursuant to the California
30 Endangered Species Act (Chapter 1.5 (commencing with Section
31 2050) of Division 3 of the Fish and Game Code) or the federal
32 Endangered Species Act (16 U.S.C. Sec. 1531 et seq.), or protect
33 wetlands, waterfowl habitat, or river or stream corridors, or
34 promote the biological viability of important California species.

35 (c) The property interest is a perpetual conservation easement
36 over agricultural land, or is a permanent contribution of agricultural
37 land, that is threatened by development and is located in an
38 unincorporated area certified by the secretary to be zoned for
39 agricultural use by the county. Property accepted pursuant to this
40 subdivision shall be accepted pursuant to the California Farmland

1 ~~Conservancy Program Act established by Division 10.2~~
2 ~~(commencing with Section 10200), pursuant to the agricultural~~
3 ~~conservation program of the Coastal Conservancy, or pursuant to~~
4 ~~the Bay Area Conservancy Program established pursuant to Chapter~~
5 ~~4.5 (commencing with Section 31160) of Division 21.~~

6 ~~(d) (1) The property interest is a water right, or land with an~~
7 ~~associated water right, and the contribution of the property will~~
8 ~~help improve the chances of recovery of a listed species, will~~
9 ~~reduce the likelihood that any species of fish or other aquatic~~
10 ~~organism will be listed pursuant to the California Endangered~~
11 ~~Species Act (Chapter 1.5 (commencing with Section 2050) of~~
12 ~~Division 3 of the Fish and Game Code) or the federal Endangered~~
13 ~~Species Act (16 U.S.C. Sec. 1531 et seq.), will improve the~~
14 ~~protection of listed species, or will improve the viability and health~~
15 ~~of fish species of economic importance to the state. The donee~~
16 ~~receiving the water right, or land with an associated water right,~~
17 ~~shall ensure that it shall retain title to the water right, and that the~~
18 ~~water shall be used to fulfill the purposes for which the water right~~
19 ~~or land associated with a water right is being accepted.~~

20 ~~(2) Any contribution of a water right that includes a change in~~
21 ~~the point of diversion, place of use, or purpose of use may be made~~
22 ~~only if the proposed change will not injure any legal user of the~~
23 ~~water involved and is made in accordance with either Chapter 10~~
24 ~~(commencing with Section 1700), or Chapter 10.5 (commencing~~
25 ~~with Section 1725), of Part 2 of Division 2 of the Water Code.~~

26 ~~(e) The property will be used as a park or open space or will~~
27 ~~augment public access to or enjoyment of existing regional or local~~
28 ~~park, beach, or open-space facilities, or will preserve archaeological~~
29 ~~resources.~~

30 ~~SEC. 7. Section 37016 of the Public Resources Code is~~
31 ~~amended to read:~~

32 ~~37016. (a) The agency shall grant approval of a proposed~~
33 ~~contribution of property under the program only upon a~~
34 ~~determination that:~~

35 ~~(1) (A) The donation of property satisfies the requirements for~~
36 ~~a qualified contribution pursuant to Section 170 of Title 26 of the~~
37 ~~United States Code. If only a portion (either an undivided fractional~~
38 ~~interest in the entire property or one or more discrete parcels) of~~
39 ~~a proposed conveyance of property satisfies the requirements of~~
40 ~~Section 170 of Title 26 of the United States Code, or if the property~~

1 is sold for less than fair market value, only that portion, or the
2 amount representing the difference between the amount paid by
3 the donee and the fair market value, shall be eligible for the tax
4 credit, to the extent permitted by Section 170(h) of Title 26 of the
5 United States Code. The agency may segregate eligible and
6 ineligible interests in property proposed to be contributed pursuant
7 to this division. The donor shall receive no other valuable
8 consideration for the donation of property subject to the tax credit.

9 (B) For purposes of this division, if the property is proposed to
10 be donated to satisfy a condition imposed upon the donor by any
11 lease, permit, license, certificate, or other entitlement for use issued
12 by one or more public agencies, including, but not limited to, the
13 mitigation of significant effects on the environment of a project
14 pursuant to an approved environmental impact report or mitigated
15 negative declaration required pursuant to the California
16 Environmental Quality Act (Division 13 (commencing with Section
17 21000)), that property shall not qualify for the credit provided in
18 Section 17053.30 or 23630 of the Revenue and Taxation Code.

19 (2) There has been no release or threatened release of a
20 hazardous material on the property, unless all of the following
21 occur:

22 (i) A final remedy in response to the release has been approved
23 by the Department of Toxic Substances Control pursuant to Chapter
24 6.5 (commencing with Section 25100) of, Chapter 6.8
25 (commencing with Section 25300) of, or Chapter 6.85
26 (commencing with Section 25396) of, Division 20 of the Health
27 and Safety Code, or the appropriate California regional water
28 quality control board pursuant to Chapter 6.7 (commencing with
29 Section 25280) of Division 20 of the Health and Safety Code.

30 (ii) The donor or donee have agreed to implement the final
31 remedy approved pursuant to clause (i).

32 (iii) The donor or donee have agreed to fund and have made
33 adequate funding available to pay for the response action, as
34 defined by Section 25323.3 of the Health and Safety Code.

35 (b) Notwithstanding paragraph (2) of subdivision (a), a donation
36 of property containing hazardous materials may be accepted under
37 the program without satisfying the requirements of paragraph (2)
38 of subdivision (a) if the donee determines, based on written
39 findings from the Department of Toxic Substances Control and
40 the California regional water quality control board with jurisdiction

1 over the property, that the hazardous materials present will pose
2 no substantial risk to human health or the environment and no
3 substantial risk of liability on the donee under the conditions under
4 which the property will be used. The Department of Toxic
5 Substances Control and the California regional water quality
6 control board with jurisdiction over the property shall carry out
7 their normal due diligence when developing the written findings
8 that will be the basis for the written determination regarding the
9 presence and risk of toxic materials on the property by the
10 Department of Toxic Substances Control or the regional board,
11 whichever is applicable. As used in this subdivision, “hazardous
12 materials” has the same meaning as contained in subdivision (d)
13 of Section 25260 of the Health and Safety Code.

14 SEC. 8. Section 37021 of the Public Resources Code is
15 amended to read:

16 37021. (a) If any property approved for acceptance pursuant
17 to this division is later transferred by the donee, the use of the
18 property shall be restricted by deed to the conservation purposes
19 for which the property was contributed pursuant to the program.
20 If the agency determines that the conservation purposes for which
21 the property was contributed can no longer be achieved due to
22 significantly changed circumstances beyond the control of the
23 donee that accepted the property, the proceeds of the sale shall be
24 used by the donee that accepted the property to acquire land in
25 California of equal or greater value and comparable public
26 resources values, as determined by the agency. The land acquired
27 shall meet the criteria of Section 37015. Nothing in this division
28 prohibits the transfer of donated property to a nonprofit
29 organization that is qualified to manage the property for the
30 purposes intended by this division, if the terms of this section are
31 met. Any local government or nonprofit organization seeking to
32 sell land pursuant to this subdivision shall first obtain the approval
33 of the agency.

34 (b) Other than as provided by subdivision (a), property approved
35 for acceptance pursuant to this division shall be used only for
36 purposes consistent with Section 37015.

37 (c) (1) If any unauthorized use is made of the property after the
38 property is donated to a local government or nonprofit organization
39 pursuant to this program, the local government or nonprofit
40 organization shall seek to terminate the unauthorized use and

1 restore the conservation benefits for which the property was
2 contributed. If the agency determines that the unauthorized use
3 has not been terminated and the conservation benefits fully restored
4 within a reasonable period of time, the fee title owner of the
5 property shall pay to the state the greater of the following:

6 (A) The fair market value of the property based on appraisals
7 when accepted by the agency.

8 (B) The fair market value of the property based on appraisals
9 at the time of and based on the unauthorized use of the property.

10 (2) The department that is the donee or the agency may seek
11 injunctive relief to prevent the unauthorized use of the property,
12 or may assume ownership or management of the property to assure
13 that it is used in the manner originally authorized.

14 (d) The agency shall develop a process to monitor the uses of
15 any land that a local government or nonprofit organization receives
16 pursuant to this division in order to ensure those uses are in
17 conformance with the purposes for which the property is accepted.

18 SEC. 9.— Section 37034 of the Public Resources Code is
19 amended to read:

20 37034. (a) (1) If a department determines that property is
21 available for acquisition by donation, and that the acquisition of
22 the property would comply with the requirements of an applicable
23 bond provision specified in subdivision (c) of Section 37032 and
24 any applicable guidelines developed for that bond provision by
25 the administering agency, and the department believes the
26 acquisition of the property would comply with the requirements
27 of this division, the department may request the prospective donor
28 of the property to submit an application pursuant to Section 37010.
29 If the prospective donor agrees to submit that application, the
30 department may apply for approval of the donation pursuant to the
31 requirements of this division.

32 (2) If a local government determines that property is available
33 for acquisition by donation, and that the acquisition of the property
34 would comply with the requirements of an applicable bond
35 provision specified in subdivision (c) of Section 37032 and any
36 applicable guidelines developed for that bond provision by the
37 administering agency, and the local government believes that the
38 acquisition of the property would comply with the requirements
39 of this division, the local government may request the department
40 that allocated to it the relevant bond funds to determine whether

1 it agrees with the local government's determinations and beliefs
2 made pursuant to this paragraph. If the department agrees with the
3 local government and gives its approval for the acquisition with
4 bond funds that it has allocated to the local government, the local
5 government may request the prospective donor of the property to
6 submit an application pursuant to Section 37010. If the prospective
7 donor agrees to submit the application, the local government may
8 apply for approval of the donation pursuant to the requirements
9 of this division.

10 (3) In addition to the requirements of Section 37011, the
11 application shall include, and shall not be accepted if it does not
12 include, a signed authorization by the donor, in a form and manner
13 mutually agreeable to the agency and the Franchise Tax Board,
14 for the disclosure of the information necessary to make the payment
15 as required by subdivision (b). For purposes of subdivision (b) of
16 Section 1798.24 of the Civil Code, the signed authorization shall
17 be the donor's voluntary consent to the disclosure of the
18 information.

19 (b) (1) If the agency gives approval, the department or local
20 government may acquire the property pursuant to this division.
21 Through the process outlined in this section, the department shall
22 reimburse the General Fund for the tax credit claimed pursuant to
23 this chapter under Section 17053.30 or 23630 of the Revenue and
24 Taxation Code by transferring bond funds identified under
25 subdivision (c) of Section 37032 to the Natural Heritage
26 Preservation Tax Credit Reimbursement Account, on the basis of
27 information provided to the department under Section 37040
28 regarding credit claimed for a qualified contribution under Section
29 17053.30 or 23630 of the Revenue and Taxation Code in that tax
30 year.

31 (2) If a local government applies directly to the agency for
32 acceptance of a qualified donation, the agency may provide
33 conditional approval for the local government to acquire the
34 property pursuant to this division. Through the process outlined
35 in this section, the local government shall reimburse the General
36 Fund for the tax credit claimed pursuant to this chapter under
37 Section 17053.30 or 23630 of the Revenue and Taxation Code by
38 transferring funds in the full amount of the approved tax credit to
39 the board for deposit into the Natural Heritage Preservation Tax
40 Credit Reimbursement Account.

1 ~~(3) (A) Upon approval by the agency, and prior to the time the~~
2 ~~department, local government, or designated nonprofit organization~~
3 ~~receives the property, the department shall encumber bond funds~~
4 ~~identified under subdivision (c) of Section 37032 in an amount~~
5 ~~necessary to pay for the tax credit as provided in Section 17053.30~~
6 ~~or 23630, as applicable, of the Revenue and Taxation Code.~~

7 ~~(B) If a local government applies directly to the agency for~~
8 ~~acceptance of a qualified donation, and the agency provides~~
9 ~~conditional approval of the qualified donation, the local~~
10 ~~government shall have 60 days to transfer to the agency the full~~
11 ~~amount of funds necessary to reimburse the General Fund. Upon~~
12 ~~receipt of the funds necessary to reimburse the General Fund, the~~
13 ~~agency shall provide the donor and the local government with a~~
14 ~~notice of final approval of the tax credit. A tax credit is not~~
15 ~~approved until such time as the donor and local government receive~~
16 ~~a final notification from the agency that sufficient funds have been~~
17 ~~received to reimburse the General Fund for the loss of revenue~~
18 ~~associated with the tax credit.~~

19 ~~(C) The acquisition agreement or any other document that~~
20 ~~clearly delineates the commitment pursuant to this division shall~~
21 ~~be the only documentation required for the department to encumber~~
22 ~~the bond funds as required by this paragraph.~~

23 ~~(D) Except as prohibited by the relevant bond act,~~
24 ~~notwithstanding Section 13340 of the Government Code or any~~
25 ~~other provision of law, the encumbrance shall be available without~~
26 ~~regard to fiscal years to allow payments to the Natural Heritage~~
27 ~~Preservation Tax Credit Reimbursement Account for the tax credit~~
28 ~~due the donor of the property under Section 17053.30 or 23630,~~
29 ~~as applicable, of the Revenue and Taxation Code.~~

30 ~~(4) The Franchise Tax Board shall provide the agency~~
31 ~~information pursuant to subdivision (a) of Section 19560 of the~~
32 ~~Revenue and Taxation Code on tax credits claimed. The~~
33 ~~information shall include the tax year for which the credit was~~
34 ~~claimed. The agency shall provide the information required by~~
35 ~~Section 37040 to the relevant department. Upon notification that~~
36 ~~a qualified tax credit has been claimed, the department, pursuant~~
37 ~~to paragraph (1), shall transfer bond funds in the amount of the~~
38 ~~tax credit for that tax year to the Natural Heritage Preservation~~
39 ~~Tax Credit Reimbursement Account within 60 days of receipt of~~

1 the notification. The department shall notify the agency of this
2 transfer.

3 (5) The agency shall forward the information it receives pursuant
4 to paragraph (4) to the Controller and the Department of Finance,
5 which shall use the information for the purpose of attributing the
6 budgetary impact of the credit and bond fund transfer to the
7 appropriate tax and fiscal year.

8 SEC. 10. Section 37038 of the Public Resources Code is
9 amended to read:

10 37038. If the agency is the department that receives moneys
11 pursuant to any of the bond provisions listed in subdivision (c) of
12 Section 37032 and the agency wishes to use those bond funds to
13 acquire property pursuant to this division using those bond funds,
14 the agency shall make separate determinations regarding whether
15 the acquisition of that property would comply with the purpose of
16 the applicable bond provision and any applicable guidelines
17 developed for that bond provision by the administering agency,
18 and whether the acquisition would comply with the requirements
19 of this division.

20 SEC. 11. Section 37040 of the Public Resources Code is
21 amended to read:

22 37040. (a) The agency shall notify the Controller, the
23 Treasurer, and the relevant department of the information listed
24 in subdivision (b) after the agency receives notification from the
25 Franchise Tax Board pursuant to Section 19560 of the Revenue
26 and Taxation Code that a person is claiming a tax credit under this
27 chapter.

28 (b) The agency shall provide all of the following information:

29 (1) The bond fund and specific provision of the bond act under
30 which the credit is being claimed.

31 (2) The project name, appropriation under which the credit was
32 encumbered, and, if applicable, the related local government.

33 (3) The department that will transfer the appropriate bond funds
34 to the Natural Heritage Preservation Tax Credit Reimbursement
35 Account.

36 (4) The amount of the tax credit for that tax year.

37 SEC. 12.

38 SECTION 1. Section 17053.30 of the Revenue and Taxation
39 Code is amended to read:

1 17053.30. (a) There shall be allowed as a credit against the
2 “net tax,” as defined in Section 17039, an amount equal to 55
3 percent of the fair market value of any qualified contribution made
4 on or after January 1, 2000, and not later than June 30, 2008, and
5 on or after January 1, 2010, and not later than June 30, 2015, by
6 the taxpayer during the taxable year to the state, any local
7 government, or any designated nonprofit organization, pursuant
8 to Division 28 (commencing with Section 37000) of the Public
9 Resources Code.

10 (b) For purposes of this section, “qualified contribution” means
11 a contribution of property, as defined in Section 37002 of the Public
12 Resources Code, that has been approved for acceptance by the
13 ~~Natural Resources Agency~~ *Wildlife Conservation Board* pursuant
14 to Division 28 (commencing with Section 37000) of the Public
15 Resources Code.

16 (c) In the case of any pass-thru entity, the fair market value of
17 any qualified contribution approved for acceptance under Division
18 28 (commencing with Section 37000) of the Public Resources
19 Code shall be passed through to the partners or shareholders of
20 the pass-thru entity in accordance with their interest in the pass-thru
21 entity as of the date of the qualified contribution. For purposes of
22 this subdivision, the term “pass-thru entity” means any partnership,
23 “S” corporation, or limited liability company treated as a
24 partnership.

25 (d) If the credit allowed by this section exceeds the “net tax,”
26 the excess may be carried over to reduce the “net tax” in the
27 following year, and the succeeding seven years if necessary, until
28 the credit is exhausted.

29 (e) This credit shall be in lieu of any other credit or deduction
30 which the taxpayer may otherwise claim pursuant to this part with
31 respect to the property or any interest therein that is contributed.

32 (f) (1) Notwithstanding any other law, for each taxable year
33 beginning on or after January 1, 2013, a taxpayer may transfer any
34 credit, in whole or in part, allowed under this section to an
35 unrelated party.

36 (2) At the time the project is under consideration by a
37 department or ~~agency~~ *the Wildlife Conservation Board*, the donor
38 shall indicate to the department or the ~~Natural Resources Agency~~
39 *Wildlife Conservation Board*, in the form and manner specified
40 by the department or the ~~Natural Resources Agency~~ *Wildlife*

1 *Conservation Board*, the donor's interest in transferring the credit,
2 in whole or in part, to an unrelated party.

3 (3) On and after January 1, 2013, the ~~Natural Resources Agency~~
4 *Wildlife Conservation Board* shall maintain a list of parties that
5 are interested in acquiring a tax credit pursuant to this subdivision.
6 The ~~Natural Resources Agency~~ *Wildlife Conservation Board* shall
7 collect all required information necessary for the transfer of the
8 credit, including the social security or other taxpayer identification
9 number of the unrelated party to whom a credit could be transferred
10 and the amount of the tax credit the party is interested in acquiring.

11 (4) As part of the approval process, the ~~Natural Resources~~
12 ~~Agency~~ *Wildlife Conservation Board* shall match projects with
13 donors interested in transferring credits with parties interested in
14 acquiring a tax credit. All parties shall agree to any proposed
15 transfer of a tax credit.

16 (5) The ~~Natural Resources agency~~ *Wildlife Conservation Board*
17 shall establish procedures as needed, including, but not limited to,
18 the use of an escrow account, for the tax credit to be purchased by
19 the acquiring entity, the donor to receive the payment for the value
20 of the transferred tax credit at the time of project closing, and for
21 a certificate evidencing the tax credit to be given to the unrelated
22 party. The ~~Natural Resources Agency~~ *Wildlife Conservation Board*
23 shall issue a certificate, in the form and manner specified by the
24 Franchise Tax Board, that shall include all required information
25 regarding the credit.

26 (6) For purposes of this subdivision, "department" has the same
27 meaning as defined in subdivision (d) of Section 37002 of the
28 Public Resources Code.

29 ~~SEC. 13.~~

30 *SEC. 2.* Section 23630 of the Revenue and Taxation Code is
31 amended to read:

32 23630. (a) There shall be allowed as a credit against the "tax,"
33 as defined in Section 23036, an amount equal to 55 percent of the
34 fair market value of any qualified contribution made on or after
35 January 1, 2000, and not later than June 30, 2008, and on or after
36 January 1, 2010, and not later than June 30, 2015, by the taxpayer
37 during the taxable year to the state, any local government, or any
38 designated nonprofit organization, pursuant to Division 28
39 (commencing with Section 37000) of the Public Resources Code.

1 (b) For purposes of this section, “qualified contribution” means
2 a contribution of property, as defined in Section 37002 of the Public
3 Resources Code, that has been approved for acceptance by the
4 ~~Natural Resources Agency~~ *Wildlife Conservation Board* pursuant
5 to Division 28 (commencing with Section 37000) of the Public
6 Resources Code.

7 (c) In the case of any pass-thru entity, the fair market value of
8 any qualified contribution approved for acceptance under Division
9 28 (commencing with Section 37000) of the Public Resources
10 Code shall be passed through to the partners or shareholders of
11 the pass-thru entity in accordance with their interest in the pass-thru
12 entity as of the date of the qualified contribution. For purposes of
13 this subdivision, the term “pass-thru entity” means any partnership
14 or “S” corporation.

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

19 (e) This credit shall be in lieu of any other credit or deduction
20 that the taxpayer may otherwise claim pursuant to this part with
21 respect to the property or any interest therein that is contributed.

22 (f) (1) Notwithstanding any other law, for each taxable year
23 beginning on or after January 1, 2013, a taxpayer may transfer any
24 credit, in whole or in part, allowed under this section to an
25 unrelated party.

26 (2) At the time the project is under consideration by a
27 department or ~~agency~~ *the Wildlife Conservation Board*, the donor
28 shall indicate to the department or the ~~Natural Resources Agency~~
29 *Wildlife Conservation Board*, in the form and manner specified
30 by the department or the ~~Natural Resources Agency~~ *Wildlife*
31 *Conservation Board*, the donor’s interest in transferring the credit,
32 in whole or in part, to an unrelated party.

33 (3) On and after January 1, 2013, the ~~Natural Resources Agency~~
34 *Wildlife Conservation Board* shall maintain a list of parties that
35 are interested in acquiring a tax credit pursuant to this subdivision.
36 The ~~Natural Resources Agency~~ *Wildlife Conservation Board* shall
37 collect all required information necessary for the transfer of the
38 credit, including the social security or other taxpayer identification
39 number of the unrelated party to whom a credit could be transferred
40 and the amount of the tax credit the party is interested in acquiring.

1 (4) As part of the approval process, the ~~Natural Resources~~
2 ~~Agency Wildlife Conservation Board~~ shall match projects with
3 donors interested in transferring credits with parties interested in
4 acquiring a tax credit. All parties shall agree to any proposed
5 transfer of a tax credit.

6 (5) The ~~Natural Resources Agency Wildlife Conservation Board~~
7 shall establish procedures as needed, including, but not limited to,
8 the use of an escrow account, for the tax credit to be purchased by
9 the acquiring entity, the donor to receive the payment for the value
10 of the transferred tax credit at the time of project closing, and for
11 a certificate evidencing the tax credit to be given to the unrelated
12 party. The ~~Natural Resources Agency Wildlife Conservation Board~~
13 shall issue a certificate, in the form and manner specified by the
14 Franchise Tax Board, that shall include all required information
15 regarding the credit.

16 (6) For purposes of this subdivision, “department” has the same
17 meaning as defined in subdivision (d) of Section 37002 of the
18 Public Resources Code.

19 ~~SEC. 14.~~

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