

AMENDED IN SENATE MAY 7, 2013  
AMENDED IN SENATE APRIL 25, 2013  
AMENDED IN SENATE APRIL 15, 2013

**SENATE BILL**

**No. 355**

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**Introduced by Senator Beall**

February 20, 2013

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An act 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 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 17053.30 of the Revenue and Taxation  
2 Code is amended to read:

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

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

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

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

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

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

37 (2) At the time the project is under consideration by a  
38 department or the Wildlife Conservation Board, the donor shall

1 indicate to the department or the Wildlife Conservation Board, in  
2 the form and manner specified by the department or the Wildlife  
3 Conservation Board, the donor’s interest in transferring the credit,  
4 in whole or in part, to an unrelated party.

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

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

17 (5) The Wildlife Conservation Board shall establish procedures  
18 as needed, including, but not limited to, the use of an escrow  
19 account, for the tax credit to be purchased by the acquiring entity,  
20 the donor to receive the payment for the value of the transferred  
21 tax credit at the time of project closing, and for a certificate  
22 evidencing the tax credit to be given to the unrelated party. The  
23 Wildlife Conservation Board shall issue a certificate, in the form  
24 and manner specified by the Franchise Tax Board, that shall include  
25 all required information 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 (7) *The Wildlife Conservation Board shall not approve a transfer*  
30 *of a credit under this section if the consideration received by the*  
31 *taxpayer in exchange for the credit is less than 90 percent of the*  
32 *value of the credit to be transferred.*

33 SEC. 2. Section 23630 of the Revenue and Taxation Code is  
34 amended to read:

35 23630. (a) There shall be allowed as a credit against the “tax,”  
36 as defined in Section 23036, an amount equal to 55 percent of the  
37 fair market value of any qualified contribution made on or after  
38 January 1, 2000, and not later than June 30, 2008, and on or after  
39 January 1, 2010, and not later than June 30, 2015, by the taxpayer  
40 during the taxable year to the state, any local government, or any

1 designated nonprofit organization, pursuant to Division 28  
2 (commencing with Section 37000) of the Public Resources Code.

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

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

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

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

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

27 (2) At the time the project is under consideration by a  
28 department or the Wildlife Conservation Board, the donor shall  
29 indicate to the department or the Wildlife Conservation Board, in  
30 the form and manner specified by the department or the Wildlife  
31 Conservation Board, the donor’s interest in transferring the credit,  
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13 all required information regarding the credit.

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

17 (7) *The Wildlife Conservation Board shall not approve a transfer*  
18 *of a credit under this section if the consideration received by the*  
19 *taxpayer in exchange for the credit is less than 90 percent of the*  
20 *value of the credit to be transferred.*

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