AMENDED IN ASSEMBLY APRIL 5, 2016

california legislature—2015–16 regular session

ASSEMBLY BILL No. 1710

Introduced by Assembly Member Calderon

January 26, 2016

An act to add ~~Chapter 8.8 (commencing with Section 44269) to Part 5 of Division 26 of the Health and Safety Code,~~ *Section 44258.6 to the Health and Safety Code, and to amend Section 17072 of, to add Section 6012.4 to, and to add and repeal Sections 17060.3 and 17206.3 of, the Revenue and Taxation Code,* relating to vehicular air pollution.

legislative counsel's digest

AB 1710, as amended, Calderon. Vehicular air pollution: ~~advanced-technology light-duty~~ *zero-emission and near-zero-emission* vehicles.

~~Existing~~

(1) Existing law establishes the Air Quality Improvement Program that is administered by the State Air Resources Board for the purposes of funding projects related to, among other things, reduction of criteria air pollutants and improvement of air quality. Pursuant to the Air Quality Improvement Program, the state board has established the Clean Vehicle Rebate Project to promote the production and use of zero-emission ~~vehicles and the Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project to provide vouchers to help California fleets to purchase hybrid and zero-emission trucks and buses.~~ *vehicles.*

The Charge Ahead California Initiative, administered by the state board, includes goals of, among other things, placing in service at least 1,000,000 zero-emission and near-zero-emission vehicles by January 1, 2023, and increasing access for disadvantaged, low-income, and moderate-income communities and consumers to zero-emission and near-zero-emission vehicles.

This bill would require, on or before January 1, 2019, the state ~~board, in coordination with the State Energy Resources Conservation and Development Commission and the Department of Transportation,~~ *board* to develop and implement a comprehensive program *comprised of a portfolio of incentives* to promote ~~advanced-technology light-duty~~ *zero-emission and near-zero-emission* vehicle deployment in the state to drastically increase the use of those vehicles and to meet specified goals established by the Governor and the Legislature.

(2) The Sales and Use Tax Law imposes a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption of tangible personal property purchased from a retailer for the storage, use, or other consumption in this state measured by sales price. That law defines the terms "gross receipts" and "sales price."

This bill, on and after January 1, 2017, would exclude from "gross receipts" and "sales price" that portion of the cost of a new or used near-zero or zero-emission vehicle purchased by a low-income purchaser, as defined, that does not exceed $40,000.

The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes counties and cities to impose local sales and use taxes in conformity with the Sales and Use Tax Law, and existing law authorizes districts, as specified, to impose transactions and use taxes generally in accordance with the Transactions and Use Tax Law, which generally conforms to the Sales and Use Tax Law. Amendments to the Sales and Use Tax Law are automatically incorporated into the local tax laws.

This bill would specify that this exemption does not apply to local sales and use taxes or transactions and use taxes.

(3) The Personal Income Tax Law allows various credits against the taxes imposed by that law.

This bill would, for taxable years beginning on or after January 1, 2017, and before January 1, 2026, allow a credit under the Personal Income Tax Law in an amount equal to $2,500 to a qualified taxpayer, as defined, who purchased a near-zero or zero-emission vehicle during the taxable year. This bill would state the intent of the Legislature to enact legislation to provide that the credit amount in excess of tax liability would be refundable in those years in which an appropriation for that purpose is made by the Legislature.

The Personal Income Tax Law, in modified conformity with federal income tax laws, allows various deductions from gross income in computing adjusted gross income under that law, including deductions for payments to individual retirement accounts, alimony payments, and interest on educational loans.

This bill, for taxable years beginning on or after January 1, 2017, and before January 1, 2026, would allow a deduction of $2,500 in computing adjusted gross income to a qualified taxpayer, as defined, who purchased a near-zero or zero-emission vehicle during the taxable year, as provided.

This bill would require a qualified taxpayer to make an irrevocable election to either claim the above-described deduction or credit for the taxable year.

(4) This bill would require the Franchise Tax Board to make an annual report to the Legislature regarding the tax provisions allowed by the bill.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

SECTION 1. Section 44258.6 is added to the Health and Safety Code, to read:

44258.6. (a) On or before January 1, 2019, the state board shall develop and implement a comprehensive program to promote zero-emission and near-zero-emission vehicle deployment in the state to drastically increase the use of those vehicles and to meet the goals established by the Governor and the Legislature, including, but not limited to, the ZEV Action Plan by the Governor's Interagency Working Group on Zero-Emission Vehicles and the Charge Ahead California Initiative.

(b) (1) The program shall consist of a portfolio of incentives, including, but not limited to, the following:

(A) An employer incentive program, including, but not limited to, incentives targeted at companies located outside population centers or companies whose employees commute from a 50-mile radius.

(B) An incentive program targeted at low-income individuals for the purchase or leasing of zero-emission or near-zero-emission vehicles.

(C) Onroad incentives.

(2) Incentives may include grants, loans, revolving loans, or other appropriate measures.

(3) In implementing the program, the state board shall consult with the State Energy Resources Conservation and Development Commission to identify opportunities for coordination with investment in zero-emission and near-zero-emission vehicle infrastructure pursuant to Section 44272.

(c) Moneys in the Greenhouse Gas Reduction Fund, the Air Quality Improvement Fund, or the Alternative and Renewable Fuel and Vehicle Technology Fund shall be made available, upon appropriation by the Legislature, for the program.

(d) The state board, in accordance with Section 9795 of the Government Code, shall submit an annual report to the Legislature regarding the efficacy of the program.

SEC. 2. Section 6012.4 is added to the Revenue and Taxation Code, to read:

6012.4. (a) On or after January 1, 2017, for purposes of this part, "gross receipts" and "sales price" do not include that portion of the cost of a new or used near-zero or zero-emission vehicle purchased by a low-income purchaser that does not exceed forty thousand dollars ($40,000).

(b) For purposes of this section:

(1) "Low-income purchaser" means an individual or individuals whose household income does not exceed 80% of the median income of the county in which they reside as determined by the United States Department of Housing and Urban Development.

(2) "Near-zero-emission vehicle" means a vehicle that utilizes zero-emission technologies, enables technologies that provide a pathway to zero-emissions operations, or incorporates other technologies that significantly reduce criteria pollutants, toxic air contaminants, and greenhouse gas emissions, as defined by the State Air Resources Board in consultation with the State Energy Resources Conservation and Development Commission consistent with meeting the state's mid- and long-term air quality standards and climate goals.

(3) "Zero-emission vehicle" means a vehicle that produces no emissions of criteria pollutants, toxic air contaminants, and greenhouse gases when stationary or operating, as determined by the State Air Resources Board.

(c) Notwithstanding any provision of the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) or the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), the exemption established by this section shall not apply with respect to any tax levied by a county, city, or district pursuant to, or in accordance with, either of those laws.

SEC. 3. Section 17060.3 is added to the Revenue and Taxation Code, to read:

17060.3. (a) For each taxable year beginning on or after January 1, 2017, and before January 1, 2026, there shall be allowed to a qualified taxpayer a credit against the "net tax," as defined in Section 17039, in an amount equal to two thousand five hundred dollars ($2,500).

(b) For the purposes of this section:

(1) "Qualified taxpayer" means an individual or individuals who meet the income eligibility requirements specified by the State Air Resources Board pursuant to subparagraph (B) of paragraph (3) of subdivision (c) of Section 44258.4 of the Health and Safety Code and who purchased a near-zero or zero-emission vehicle during the taxable year.

(2) "Near-zero-emission vehicle" means a vehicle that utilizes zero-emission technologies, enables technologies that provide a pathway to zero-emissions operations, or incorporates other technologies that significantly reduce criteria pollutants, toxic air contaminants, and greenhouse gas emissions, as defined by the State Air Resources Board in consultation with the State Energy Resources Conservation and Development Commission consistent with meeting the state's mid- and long-term air quality standards and climate goals.

(3) "Zero-emission vehicle" means a vehicle that produces no emissions of criteria pollutants, toxic air contaminants, and greenhouse gases when stationary or operating, as determined by the State Air Resources Board.

(c) (1) Subject to paragraph (2), in the case where the credit allowed by this section exceeds the "net tax" the excess may be carried over to reduce the "net tax," in the following year, and succeeding six years if necessary, until the credit is exhausted.

(2) It is the intent of the Legislature to enact legislation to provide that in the case where the credit allowed by this section

exceeds the "net tax," the excess, in lieu of the carry forward pursuant to paragraph (1), may be refunded to taxpayers, upon appropriation by the Legislature.

(d) A qualified taxpayer shall make an irrevocable election to claim the credit allowed by this section in lieu of the deduction allowed by Section 17206.3.

(e) This section shall remain in effect only until December 1, 2026, and as of that date is repealed.

SEC. 4. Section 17072 of the Revenue and Taxation Code is amended to read:

17072. (a) Section 62 of the Internal Revenue Code, relating to adjusted gross income defined, shall apply, except as otherwise provided.

(b) Section 62(a)(2)(D) of the Internal Revenue Code, relating to certain expenses of elementary and secondary school teachers, shall not apply.

(c) Section 62(a)(21) of the Internal Revenue Code, relating to attorneys fees relating to awards to whistleblowers, shall not apply.

(d) For taxable years beginning on or after January 1, 2017, and before January 1, 2026, Section 62(a) of the Internal Revenue Code is modified to provide that the deduction under Section 17206.3 shall be allowed in determining adjusted gross income.

SEC. 5. Section 17206.3 is added to the Revenue and Taxation Code, to read:

17206.3. (a) For taxable years beginning on or after January 1, 2017, and before January 1, 2026, there shall be allowed as a deduction of two thousand five hundred dollars ($2,500) to a qualified taxpayer who, during the taxable year, purchased a near-zero or zero-emission vehicle.

(b) For the purposes of this section:

(1) "Qualified taxpayer" means an individual or individuals who meet the income eligibility requirements specified by the State Air Resources Board pursuant to subparagraph (B) of paragraph (3) of subdivision (c) of Section 44258.4 of the Health and Safety Code.

(2) "Near-zero-emission vehicle" means a vehicle that utilizes zero-emission technologies, enables technologies that provide a pathway to zero-emissions operations, or incorporates other technologies that significantly reduce criteria pollutants, toxic air contaminants, and greenhouse gas emissions, as defined by the

State Air Resources Board in consultation with the State Energy Resources Conservation and Development Commission consistent with meeting the state's mid- and long-term air quality standards and climate goals.

(3) "Zero-emission vehicle" means a vehicle that produces no emissions of criteria pollutants, toxic air contaminants, and greenhouse gases when stationary or operating, as determined by the State Air Resources Board.

(c) A qualified taxpayer shall make an irrevocable election to claim the deduction allowed by this section in lieu of the credit allowed by Section 17060.3.

(d) This section shall remain in effect only until December 1, 2026, and as of that date is repealed.

SEC. 6. (a) In accordance with Section 41 of the Revenue and Taxation Code, on or before January 1, 2018, and each January 1 thereafter until January 1, 2027, the Franchise Tax Board, in consultation with the State Board of Equalization, shall annually prepare a written report to the Legislature regarding the efficacy of Sections 6012.4, 17060.3, and 17206.3 of the Revenue and Taxation Code, as added by Sections 2, 3, and 5 of this act.

(b) A report submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

~~SECTION 1. The Legislature finds and declares all of the following:~~

~~(a) Advanced-technology light-duty vehicles are currently more expensive than equivalent conventional models. Despite a federal tax credit and the state's vehicle incentive, the higher initial costs for zero-emission vehicles remain a barrier for many of the state's consumers.~~

~~(b) Some advanced-technology light-duty vehicles require new infrastructure to enable convenient and cost-effective fueling, which can be a barrier to vehicle sales. This can include fueling infrastructure in homes, workplaces, and public spaces.~~

~~(c) Market penetration is slowed due to a lack of information for consumers on the benefits and availability of vehicles and the incentives available when they are ready to purchase or lease a vehicle.~~

~~(d) While the state has taken a leadership role to develop programs to assist the deployment of plug-in electric vehicles and~~

~~fuel-cell electric vehicles in disadvantaged communities, any long-term plan designed by the state needs to address new and used car sales in disadvantaged communities.~~

~~SEC. 2. Chapter 8.8 (commencing with Section 44269) is added to Part 5 of Division 26 of the Health and Safety Code, to read:~~

~~Chapter 8.8. Advanced-Technology Light-Duty Vehicles~~

~~44269. (a) On or before January 1, 2019, the state board, in coordination with the State Energy Resources Conservation and Development Commission and the Department of Transportation, shall develop and implement a comprehensive program to promote advanced-technology light-duty vehicle deployment in the state to drastically increase the use of those vehicles and to meet the goals established by the Governor and the Legislature, including, but not limited to, the ZEV Action Plan by the Governor's Interagency Working Group on Zero-Emission Vehicles and the Charge Ahead California Initiative (Chapter 8.5 (commencing with Section 44258)).~~

~~(b) The program established pursuant to this chapter shall include all of the following:~~

~~(1) Long-term market signals.~~

~~(2) Sustainable funding mechanisms.~~

~~(3) A portfolio of approaches.~~

~~(4) Support for low-income deployment in disadvantaged communities, as identified in Section 39711.~~

~~(c) The program established pursuant to this chapter may include, but need not be limited to, any of the following:~~

~~(1) On-road incentives.~~

~~(2) Point-of-sale incentives.~~

~~(3) Consumer tax incentives.~~

~~(4) In-home and parking infrastructure incentives.~~

O