

AMENDED IN ASSEMBLY APRIL 6, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2040**

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**Introduced by Assembly Member Melendez**

February 17, 2016

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An act to add and repeal Section 17053.37 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2040, as amended, Melendez. Outdoor Water Efficiency Act of 2016: personal income tax credits: outdoor water efficiency.

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

This bill, for taxable years beginning on or after January 1, ~~2017~~, 2016, and before January 1, ~~2022~~, 2021, would allow a credit equal to 25% of the amount paid or incurred by a qualified taxpayer for water-efficiency improvements, as defined, on qualified real property in this state, as specified. The bill would limit the cumulative amount of the credit to \$2,500 for each qualified real property for all taxable years. The bill would require a qualified taxpayer to obtain and retain a certification of the water-efficiency improvements from the appropriate regional or local water agency after completion of the improvements and to provide a copy of this certification to the Franchise Tax Board upon request.

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:*

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

(a) The 2014 water year, ending on September 30, was the third driest based on the 119-year long statewide precipitation record.

(b) Temperatures in the first nine months of 2014 were a record-breaking 4.1 degrees above the 20th century average across the state.

(c) Responding to these unprecedented dry and hot conditions, the United States Drought Monitor classified more than 80 percent of California in an “extreme” drought condition, with 58 percent of California in an “exceptional” drought, the highest condition.

(d) On January 17, 2014, the Governor called upon retail water providers throughout California to reduce residential per capita water use by 20 percent as compared to 2013 levels.

(e) Outdoor water use accounts for the highest percentage of regional water use.

(f) Landscape design, installation, maintenance, and management can and should be water efficient. The use of water-efficient landscapes contributes to the state’s efforts to increase the reliability of its water supplies.

*(g) Californians can achieve water efficient landscapes by installing a combination of drought-tolerant live plants; warm season turf varieties, which require 25 percent less water compared to cool season turf; soaker or drip-irrigation hoses; a moisture control for a sprinkler or irrigation system; mulch and soil; a rain barrel or an alternative rain and moisture collection system; a permeable ground cover surface that allows water to reach underground basins, aquifers, or water collection points; plant and grass seeds coated with a water-saving surfactant; and a water saving surfactant.*

~~(g)~~  
(h) Municipalities and local water agencies are tasked with enforcing water conservation ordinances to eliminate water waste and restrict outdoor water use.

~~(h)~~  
(i) It is the intent of the Legislature to provide an income tax credit for the purchase of outdoor water use efficiency

1 improvements during the exceptional drought that California is  
2 facing.

3 SEC. 2. Section 17053.37 is added to the Revenue and Taxation  
4 Code, to read:

5 17053.37. (a) For each taxable year beginning on or after  
6 January 1, ~~2017~~, 2016, and before January 1, ~~2022~~, 2021, there  
7 shall be allowed as a credit against the “net tax,” as defined in  
8 Section 17039, an amount equal to 25 percent of the amount paid  
9 or incurred during the taxable year by a qualified taxpayer for  
10 water-efficiency improvements for outdoor landscapes on qualified  
11 real property in this state.

12 (b) For each qualified real property, the credit allowed under  
13 this section shall not cumulatively exceed two thousand five  
14 hundred dollars (\$2,500) for all taxable years.

15 (c) For the purposes of this section, the following definitions  
16 shall apply:

17 (1) “Qualified real property” means a principal residence of the  
18 qualified taxpayer, within the meaning of Section 121 of the  
19 Internal Revenue Code, relating to exclusion of gain from sale of  
20 principal residence, in this state.

21 (2) “Qualified taxpayer” means the owner of any qualified real  
22 property.

23 (3) (A) “Water-efficiency improvements” means expenditures  
24 voluntarily paid or incurred by the qualified taxpayer that are  
25 certified by the appropriate regional or local water agency as  
26 water-efficient improvements compatible with any of the following:

27 (i) A local water-efficient landscape ordinance of a regional or  
28 local water agency adopted or in effect at the time the  
29 improvements are made.

30 (ii) The state water-efficient landscape statutes adopted or in  
31 effect at the time the improvements are made.

32 (iii) A water-efficient landscape program that is developed and  
33 implemented by a regional or local water agency for the specific  
34 purpose of reducing water use.

35 (B) “Water-efficiency improvements” do not include  
36 improvements performed to bring landscaping into mandatory  
37 compliance with a local water-efficient landscape ordinance or  
38 state law.

39 (d) A qualified taxpayer shall:

1 (1) Obtain certification of the water-efficiency improvements  
2 from the appropriate regional or local water agency specified in  
3 paragraph (3) of subdivision (c) after completion of those  
4 improvements.

5 (2) Retain a copy of the certification specified in paragraph (1)  
6 and, upon request, provide a copy of that certification to the  
7 Franchise Tax Board.

8 (e) This credit shall be in lieu of any other credit or deduction  
9 that the qualified taxpayer may otherwise claim pursuant to this  
10 part with respect to the amounts paid or incurred for  
11 water-efficiency improvements for outdoor landscapes on qualified  
12 real property in this state.

13 (f) In the case where the credit allowed under this section  
14 exceeds the “net tax,” as defined by Section 17039, for a taxable  
15 year, the excess credit may be carried over to reduce the “net tax”  
16 in the following taxable year, and succeeding three taxable years,  
17 if necessary, until the credit has been exhausted.

18 (g) Section 41 does not apply to the credit allowed by this  
19 section.

20 (h) This section shall remain in effect until December 1, ~~2022~~,  
21 ~~2021~~, and as of that date is repealed.

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