

ASSEMBLY BILL

No. 2673

**Introduced by Assembly Member Harper
(Coauthors: Assembly Members Steinorth and Wilk)**

February 19, 2016

An act to add Section 6377.5 to, and to add and repeal Sections 17053.55 and 23655 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2673, as introduced, Harper. Sales and use tax exemption: income tax credits hydrogen refueling station equipment.

(1) Existing sales and use tax laws impose 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 in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state. Existing law provides various exemptions from the taxes imposed by those laws.

This bill, on and after January 1, 2017, and before January 1, 2030, would exempt from those taxes the gross receipts from the sale of, and the storage, use, or other consumption in this state of, hydrogen refueling station equipment, as defined, purchased by a recipient of a grant pursuant to the Alternative and Renewable Fuel and Vehicle Technology Program for the development of hydrogen refueling stations.

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 in accordance with the Transactions and Use Tax Law, which conforms to the Sales and

Use Tax Law. Amendments to state sales and use taxes are incorporated into these laws.

Section 2230 of the Revenue and Taxation Code provides that the state will reimburse counties and cities for revenue losses caused by the enactment of sales and use tax exemptions.

This bill would provide that, notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse any local agencies for sales and use tax revenues lost by them pursuant to this bill.

(2) The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws.

This bill would allow to a grant recipient described above a credit against those taxes for the taxable years beginning on or after January 1, 2016, and before January 1, 2017, for an amount equal to the sum of the sales tax reimbursement or use taxes previously paid by a grant recipient for hydrogen refueling station equipment during the period from January 1, 2014, to January 1, 2017, inclusive, as provided. The bill would repeal these provisions as of December 1, 2017.

(3) 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 6377.5 is added to the Revenue and
2 Taxation Code, to read:

3 6377.5. (a) On and after January 1, 2017, there are exempted
4 from the taxes imposed by this part the gross receipts from the sale
5 of, and the storage, use, or other consumption in this state of,
6 hydrogen refueling station equipment to or by a qualified grant
7 recipient before January 1, 2030.

8 (b) As used in this section, the following definitions shall apply:

9 (1) "Qualified grant recipient" means a person who has received
10 a grant pursuant to Section 44272 of the Health and Safety Code
11 for the development of hydrogen refueling stations within this
12 state.

13 (2) "Hydrogen refueling station" means any motor vehicle
14 fueling station which provides hydrogen fuel, either exclusively
15 or concurrently with other motor vehicle fuels, for use by fuel cell
16 electric vehicles.

1 (3) “Hydrogen refueling station equipment” means any of the
2 following:

3 (A) Equipment, including, but not limited to, machinery,
4 devices, contrivances, and component, repair, or replacement parts,
5 whether purchased separately or in conjunction with a complete
6 machine and regardless of whether the equipment or component
7 parts are assembled by the grant recipient or another party, to be
8 located at a hydrogen refueling station within this state and used
9 exclusively for the distribution, dispensing, storage, or production
10 of hydrogen fuel for fuel cell electric vehicles, including, but not
11 limited to, pressurized storage, compression, pre-cooling, and
12 pumping of hydrogen fuel.

13 (B) Personal property that is software or software services,
14 regardless of location, and computer, computer-type, or data
15 processing hardware or hardware services, regardless of location,
16 that is used exclusively for the distribution, storage, or production
17 of hydrogen fuel for fuel cell electric vehicles.

18 (C) Any other personal property required to operate, control,
19 regulate, or maintain the hydrogen refueling station equipment set
20 forth in subparagraph (A) or (B).

21 (4) “Fuel cell” means a device that directly or indirectly creates
22 electricity through an electrochemical process using hydrogen, or
23 hydrogen-rich, fuel and oxygen or another oxidizing agent.

24 SEC. 2. Section 17053.55 is added to the Revenue and Taxation
25 Code, to read:

26 17053.55. (a) For the taxable years beginning on or after
27 January 1, 2016, and before January 1, 2017, there shall be allowed
28 to a qualified grant recipient a credit against the “net tax,” as
29 defined in Section 17039, for the taxable year, in an amount equal
30 to the sum of sales tax reimbursements and use taxes previously
31 paid during the period from January 1, 2014, to January 1, 2017,
32 by the qualified grant recipient for hydrogen station refueling
33 equipment that is placed in service during that period.

34 (b) For the purposes of this section, the terms “qualified grant
35 recipient” and “hydrogen station refueling equipment” have the
36 same meanings as specified in Section 6377.5.

37 (c) In the case of a pass-thru entity, a credit under this section
38 shall be allowed to the pass-thru entity and passed through to the
39 partners or shareholders in accordance with the applicable

1 provisions of this part. As used in this subdivision, “pass-thru
2 entity” means any partnership or “S” corporation.

3 (d) If a credit otherwise allowed by this section exceeds the “net
4 tax” for the taxable year, that portion of the credit that exceeds the
5 “net tax” may be carried over and added to the credit in the
6 succeeding taxable years, if necessary, until the credit is exhausted.

7 (e) The Franchise Tax Board may prescribe rules, guidelines,
8 or procedures necessary or appropriate to carry out the purposes
9 of this section. Chapter 3.5 (commencing with Section 11340) of
10 Part 1 of Division 3 of Title 2 of the Government Code shall not
11 apply to any rule, guideline, or procedure prescribed by the
12 Franchise Tax Board pursuant to this section.

13 (f) Section 41 does not apply to the credit allowed by this
14 section.

15 (g) This section shall remain in effect only until December 1,
16 2017, and as of that date is repealed.

17 SEC. 3. Section 23655 is added to the Revenue and Taxation
18 Code, to read:

19 23655. (a) For the taxable years beginning on or after January
20 1, 2016, and before January 1, 2017, there shall be allowed to a
21 qualified grant recipient a credit against the “tax,” as defined in
22 Section 23036, for the taxable year in an amount equal to the sum
23 of sales tax reimbursements and use taxes previously paid during
24 the period from January 1, 2014, to January 1, 2017, by the
25 qualified grant recipient for hydrogen station refueling equipment
26 that is placed in service during that period.

27 (b) For the purposes of this section, the terms “qualified grant
28 recipient” and “hydrogen station refueling equipment” have the
29 same meanings as specified in Section 6377.5.

30 (c) In the case of a pass-thru entity, a credit under this section
31 shall be allowed to the pass-thru entity and passed through to the
32 partners or shareholders in accordance with the applicable
33 provisions of this part. As used in this subdivision, “pass-thru
34 entity” means any partnership.

35 (d) If a credit otherwise allowed by this section exceeds the
36 “tax” for the taxable year, that portion of the credit that exceeds
37 the “tax” may be carried over and added to the credit in the
38 succeeding taxable years, if necessary, until the credit is exhausted.

39 (e) The Franchise Tax Board may prescribe rules, guidelines,
40 or procedures necessary or appropriate to carry out the purposes

1 of this section. Chapter 3.5 (commencing with Section 11340) of
2 Part 1 of Division 3 of Title 2 of the Government Code shall not
3 apply to any rule, guideline, or procedure prescribed by the
4 Franchise Tax Board pursuant to this section.

5 (f) Section 41 does not apply to the credit allowed by this
6 section.

7 (g) This section shall remain in effect only until December 1,
8 2017, and as of that date is repealed.

9 SEC. 4. Notwithstanding Section 2230 of the Revenue and
10 Taxation Code, no appropriation is made by this act and the state
11 shall not reimburse any local agency for any sales and use tax
12 revenues lost by it under this act.

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