

AMENDED IN SENATE APRIL 14, 2015

AMENDED IN SENATE MARCH 16, 2015

SENATE BILL

No. 152

Introduced by Senator Vidak
(Principal coauthor: Senator Bates)
(Coauthor: Assembly Member Chávez)

February 2, 2015

An act to add and repeal Section 17052.1 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 152, as amended, Vidak. Personal income taxes: earned income credit.

The Personal Income Tax Law allows various credits against the taxes imposed by that law, including certain credits that are allowed in modified conformity to credits allowed by federal income tax laws.

This bill, for taxable years beginning on or after January 1, 2016, and before January 1, 2023, would allow a credit to a qualified taxpayer, as defined, computed by multiplying the federal earned income credit amount, as defined, by 15%. The bill would provide that the credit amount in excess of the qualified taxpayer's liability would be paid to the qualified taxpayer upon appropriation by the Legislature. This bill would require the Franchise Tax Board to submit a report to the Legislature, beginning January 1, 2017, and each January 1 thereafter, until January 1, 2023, regarding the credit, 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:

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

(a) California has the fifth largest Temporary Assistance for Needy Families (TANF) cash grant in the nation, and the second largest amongst the 10 largest states, yet poverty remains a persistent problem.

(b) In its Supplemental Poverty Measure report for the year 2013, released in October 2014, the United States Census Bureau reported California's rate of poverty to be 23.4%. This rate is the highest among all 50 states.

(c) Using census data released in September 2014, the California Budget Project reported that the economic recovery from the Great Recession has largely bypassed low- and middle-income Californians, with the bottom three-fifths of the income distribution experiencing stagnating income gains. This is contrasted with the top one-fifth of the income distribution experiencing gains of 52.4%.

(d) According to the Legislative Analyst's Office (LAO), evidence from academic studies suggests that the federal Earned Income Tax Credit (EITC) increases paid work participation to be higher than if the federal EITC did not exist.

(e) The LAO further states that the federal EITC also reduces poverty to some extent for tens of millions of people.

(f) The federal EITC has historically had a high level of improper payments to people who claimed a bigger credit than that for which they were eligible. As the federal EITC is a proven antipoverty measure that encourages work, California should adopt its own version of the EITC that includes appropriate enforcement activities to reduce improper payments.

SEC. 2. Section 17052.1 is added to the Revenue and Taxation Code, to read:

17052.1. (a) For each taxable year beginning on or after January 1, 2016, and before January 1, 2023, there shall be allowed to a qualified taxpayer a credit against the "net tax," as defined by Section 17039, an amount computed by multiplying the federal earned income credit amount, as defined in by subdivision (b), by 15 percent.

(b) (1) For purposes of this section, except as provided in paragraph (2), “federal earned income credit amount” means the amount determined under Section 32 of the Internal Revenue Code, as amended by Section 1002(a) of Public Law 111-5, as amended by Section 219(a)(2) of Public Law 111-226, as amended by Section 103(c) of Public Law 111-312, and as amended by Section 103(c) of Public Law 112-240.

(2) For each taxable year beginning on or after January 1, 2017, and before January 1, 2023, the Franchise Tax Board shall recompute the amounts prescribed in Section 32(b) of the Internal Revenue Code, relating to amounts, and Section 32(i) of the Internal Revenue Code, relating to denial of credit for individuals having excessive investment income. That computation shall be made as follows:

(A) The California Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of the prior calendar year to June of the current calendar year, no later than August 1 of the current calendar year.

(B) The Franchise Tax Board shall do both of the following:

(i) Compute an inflation adjustment factor by adding 100 percent to the percentage change figure that is furnished pursuant to subparagraph (A) and dividing the result by 100.

(ii) Multiply the preceding taxable year income tax brackets by the inflation adjustment factor determined in clause (i) and round off the resulting products to the nearest one dollar (\$1).

(c) For purposes of this section, “qualified taxpayer” means an individual who is eligible for a credit, for federal income tax purposes, under Section 32 of the Internal Revenue Code, as amended by Section 1002(a) of Public Law 111-5, as amended by Section 219(a)(2) of Public Law 111-226, as amended by Section 103(c) of Public Law 111-312, and as amended by Section 103(c) of Public Law 112-240, for the taxable year in which the credit allowed under this section is claimed, and who is legally working in the state and possesses a valid social security number, legal work authorization, or taxpayer’s identification number.

(d) Any simple error shall be treated as a mathematical error appearing on the return.

(e) (1) Except as provided in paragraph (2) in the case where the credit allowed under this section exceeds “net tax,” the excess

1 credit may be carried over to reduce the “net tax” in the following
2 taxable year, and succeeding taxable years, if necessary, until the
3 credit is exhausted.

4 (2) If the amount allowable as a credit under this section exceeds
5 the tax liability computed under this part, the excess shall be
6 credited against other amounts due, if any, and the balance, if any,
7 shall, upon appropriation by the Legislature, be paid from the
8 General Fund and refunded to the qualified taxpayer.

9 (3) Any amount paid to a qualified taxpayer pursuant to this
10 section shall not be included in income subject to tax under this
11 part.

12 (f) The credit allowed by this section may be claimed only on
13 a timely filed original return of the qualified taxpayer. The
14 determinations of the Franchise Tax Board with respect to the date
15 a return has been received by the Franchise Tax Board for purposes
16 of this subdivision may not be reviewed in any administrative or
17 judicial proceeding.

18 (g) Notwithstanding any other law, and to the extent permitted
19 by federal law, amounts paid pursuant to subdivision (e) shall be
20 treated the same as the federal earned income credit amount for
21 the purpose of determining eligibility to receive benefits under
22 Division 9 (commencing with Section 10000) of the Welfare and
23 Institutions Code or amounts of those benefits.

24 (h) For purposes of this section, the Franchise Tax Board shall
25 do the following:

26 (1) Administer enforcement activities to address improper
27 payments.

28 (2) Collaborate with the Employment Development Department
29 to develop criteria for, and a process to verify, taxpayer income
30 information using wage and withholding data.

31 (3) Establish criteria for, and a process to identify, high-risk
32 returns. High-risk returns may be subject to increased verification
33 procedures and payments pursuant to this section may be suspended
34 until the information is verified.

35 (4) (A) Notwithstanding Section 10231.5 of the Government
36 Code, beginning January 1, 2017, and each January 1 thereafter,
37 until January 1, 2023, the Franchise Tax Board shall submit a
38 report on the use of the credit described in subdivision (a) to the
39 Legislature. The report shall include information regarding the

1 eligibility for the credit, use of the credit, and information regarding
2 improper payments.

3 (B) A report submitted pursuant to this paragraph shall be
4 submitted in compliance with Section 9795 of the Government
5 Code.

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

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

14 (k) This section shall remain in effect only until December 1,
15 2023, and as of that date is repealed.

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