

AMENDED IN SENATE APRIL 20, 1999

SENATE BILL

No. 403

Introduced by Senator Kelley

February 12, 1999

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An act to amend ~~Section~~ *Sections 17053.70 and 23612.2* of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 403, as amended, Kelley. ~~Bank~~ *Personal income and bank* and corporation ~~tax~~ taxes: credits.

The *Personal Income Tax Law and the Bank and Corporation Tax Law* ~~authorizes~~ *authorize* various credits against the taxes imposed by ~~that law~~ *those laws*, including credits for sales *or use* tax paid on specified items. The items include machinery and machinery parts used for air and water pollution control mechanisms.

This bill would specify that agricultural drain water treatment facilities are included as part of the qualifying water pollution control mechanisms.

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 17053.70 of the Revenue and*
- 2 *Taxation Code is amended to read:*

1 17053.70. (a) There shall be allowed as a credit  
2 against the “net tax” (as defined in Section 17039) for the  
3 taxable year an amount equal to the sales or use tax paid  
4 or incurred during the taxable year by the taxpayer in  
5 connection with the taxpayer’s purchase of qualified  
6 property.

7 (b) For purposes of this section:

8 (1) “Taxpayer” means a person or entity engaged in a  
9 trade or business within an enterprise zone.

10 (2) “Qualified property” means:

11 (A) Any of the following:

12 (i) Machinery and machinery parts used for  
13 fabricating, processing, assembling, and manufacturing.

14 (ii) Machinery and machinery parts used for the  
15 production of renewable energy resources.

16 (iii) Machinery and machinery parts used for either of  
17 the following:

18 (I) Air pollution control mechanisms.

19 (II) Water pollution control mechanisms, *including*  
20 *agricultural drain water treatment facilities.*

21 (iv) Data processing and communications equipment,  
22 including, but not limited, to computers,  
23 computer-automated drafting systems, copy machines,  
24 telephone systems, and faxes.

25 (v) Motion picture manufacturing equipment central  
26 to production and postproduction, including, but not  
27 limited to, cameras, audio recorders, and digital image  
28 and sound processing equipment.

29 (B) The total cost of qualified property purchased and  
30 placed in service in any taxable year that may be taken  
31 into account by any taxpayer for purposes of claiming this  
32 credit shall not exceed one million dollars (\$1,000,000).

33 (C) The qualified property is used by the taxpayer  
34 exclusively in an enterprise zone.

35 (D) The qualified property is purchased and placed in  
36 service before the date the enterprise zone designation  
37 expires, is no longer binding, or becomes inoperative.

38 (3) “Enterprise zone” means the area designated as an  
39 enterprise zone pursuant to Chapter 12.8 (commencing



1 with Section 7070) of Division 7 of Title 1 of the  
2 Government Code.

3 (c) If the taxpayer has purchased property upon  
4 which a use tax has been paid or incurred, the credit  
5 provided by this section shall be allowed only if qualified  
6 property of a comparable quality and price is not timely  
7 available for purchase in this state.

8 (d) In the case where the credit otherwise allowed  
9 under this section exceeds the “net tax” for the taxable  
10 year, that portion of the credit that exceeds the “net tax”  
11 may be carried over and added to the credit, if any, in  
12 succeeding taxable years, until the credit is exhausted.  
13 The credit shall be applied first to the earliest taxable  
14 years possible.

15 (e) Any taxpayer who elects to be subject to this  
16 section shall not be entitled to increase the basis of the  
17 qualified property as otherwise required by Section  
18 164(a) of the Internal Revenue Code with respect to sales  
19 or use tax paid or incurred in connection with the  
20 taxpayer’s purchase of qualified property.

21 (f) (1) The amount of the credit otherwise allowed  
22 under this section and Section 17053.74, including any  
23 credit carryover from prior years, that may reduce the  
24 “net tax” for the taxable year shall not exceed the amount  
25 of tax that would be imposed on the taxpayer’s business  
26 income attributable to the enterprise zone determined as  
27 if that attributable income represented all of the income  
28 of the taxpayer subject to tax under this part.

29 (2) Attributable income shall be that portion of the  
30 taxpayer’s California source business income that is  
31 apportioned to the enterprise zone. For that purpose, the  
32 taxpayer’s business income attributable to sources in this  
33 state first shall be determined in accordance with  
34 Chapter 17 (commencing with Section 25101) of Part 11.  
35 That business income shall be further apportioned to the  
36 enterprise zone in accordance with Article 2  
37 (commencing with Section 25120) of Chapter 17 of Part  
38 11, modified for purposes of this section in accordance  
39 with paragraph (3).



1 (3) Business income shall be apportioned to the  
2 enterprise zone by multiplying the total California  
3 business income of the taxpayer by a fraction, the  
4 numerator of which is the property factor plus the payroll  
5 factor, and the denominator of which is two. For purposes  
6 of this paragraph:

7 (A) The property factor is a fraction, the numerator of  
8 which is the average value of the taxpayer's real and  
9 tangible personal property owned or rented and used in  
10 the enterprise zone during the taxable year, and the  
11 denominator of which is the average value of all the  
12 taxpayer's real and tangible personal property owned or  
13 rented and used in this state during the taxable year.

14 (B) The payroll factor is a fraction, the numerator of  
15 which is the total amount paid by the taxpayer in the  
16 enterprise zone during the taxable year for  
17 compensation, and the denominator of which is the total  
18 compensation paid by the taxpayer in this state during the  
19 taxable year.

20 (4) The portion of any credit remaining, if any, after  
21 application of this subdivision, shall be carried over to  
22 succeeding taxable years, as if it were an amount  
23 exceeding the "net tax" for the taxable year, as provided  
24 in subdivision (d).

25 (g) The amendments made to this section by the act  
26 adding this subdivision shall apply to taxable years  
27 beginning on or after January 1, 1998.

28 *SEC. 2.* Section 23612.2 of the Revenue and Taxation  
29 Code is amended to read:

30 23612.2. (a) There shall be allowed as a credit against  
31 the "tax" (as defined by Section 23036) for the income  
32 year an amount equal to the sales or use tax paid or  
33 incurred during the income year by the taxpayer in  
34 connection with the taxpayer's purchase of qualified  
35 property.

36 (b) For purposes of this section:

37 (1) "Taxpayer" means either a bank or corporation  
38 engaged in a trade or business within an enterprise zone.

39 (2) "Qualified property" means:

40 (A) Any of the following:



1 (i) Machinery and machinery parts used for  
2 fabricating, processing, assembling, and manufacturing.

3 (ii) Machinery and machinery parts used for the  
4 production of renewable energy resources.

5 (iii) Machinery and machinery parts used for either of  
6 the following:

7 (I) Air pollution control mechanisms.

8 (II) Water pollution control mechanisms, including  
9 agricultural drain water treatment facilities.

10 (iv) Data processing and communications equipment,  
11 including, but not limited to, computers,  
12 computer-automated drafting systems, copy machines,  
13 telephone systems, and faxes.

14 (v) Motion picture manufacturing equipment central  
15 to production and postproduction, including, but not  
16 limited to, cameras, audio recorders, and digital image  
17 and sound processing equipment.

18 (B) The total cost of qualified property purchased and  
19 placed in service in any income year that may be taken  
20 into account by any taxpayer for purposes of claiming this  
21 credit shall not exceed twenty million dollars  
22 (\$20,000,000).

23 (C) The qualified property is used by the taxpayer  
24 exclusively in an enterprise zone.

25 (D) The qualified property is purchased and placed in  
26 service before the date the enterprise zone designation  
27 expires, is no longer binding, or becomes inoperative.

28 (3) "Enterprise zone" means the area designated as an  
29 enterprise zone pursuant to Chapter 12.8 (commencing  
30 with Section 7070) of Division 7 of Title 1 of the  
31 Government Code.

32 (c) If the taxpayer has purchased property upon  
33 which a use tax has been paid or incurred, the credit  
34 provided by this section shall be allowed only if qualified  
35 property of a comparable quality and price is not timely  
36 available for purchase in this state.

37 (d) In the case where the credit otherwise allowed  
38 under this section exceeds the "tax" for the income year,  
39 that portion of the credit which exceeds the "tax" may be  
40 carried over and added to the credit, if any, in the



1 following year, and succeeding years if necessary, until  
2 the credit is exhausted. The credit shall be applied first to  
3 the earliest income years possible.

4 (e) Any taxpayer who elects to be subject to this  
5 section shall not be entitled to increase the basis of the  
6 qualified property as otherwise required by Section  
7 164(a) of the Internal Revenue Code with respect to sales  
8 or use tax paid or incurred in connection with the  
9 taxpayer's purchase of qualified property.

10 (f) (1) The amount of credit otherwise allowed under  
11 this section and Section 23622.7, including any credit  
12 carryover from prior years, that may reduce the "tax" for  
13 the income year shall not exceed the amount of tax which  
14 would be imposed on the taxpayer's business income  
15 attributable to the enterprise zone determined as if that  
16 attributable income represented all of the income of the  
17 taxpayer subject to tax under this part.

18 (2) Attributable income shall be that portion of the  
19 taxpayer's California source business income that is  
20 apportioned to the enterprise zone. For that purpose, the  
21 taxpayer's business income attributable to sources in this  
22 state first shall be determined in accordance with  
23 Chapter 17 (commencing with Section 25101). That  
24 business income shall be further apportioned to the  
25 enterprise zone in accordance with Article 2  
26 (commencing with Section 25120) of Chapter 17,  
27 modified for purposes of this section in accordance with  
28 paragraph (3).

29 (3) Business income shall be apportioned to the  
30 enterprise zone by multiplying the total California  
31 business income of the taxpayer by a fraction, the  
32 numerator of which is the property factor plus the payroll  
33 factor, and the denominator of which is two. For purposes  
34 of this paragraph:

35 (A) The property factor is a fraction, the numerator of  
36 which is the average value of the taxpayer's real and  
37 tangible personal property owned or rented and used in  
38 the enterprise zone during the taxable year, and the  
39 denominator of which is the average value of all the



1 taxpayer's real and tangible personal property owned or  
2 rented and used in this state during the taxable year.

3 (B) The payroll factor is a fraction, the numerator of  
4 which is the total amount paid by the taxpayer in the  
5 enterprise zone during the taxable year for  
6 compensation, and the denominator of which is the total  
7 compensation paid by the taxpayer in this state during the  
8 taxable year.

9 (4) The portion of any credit remaining, if any, after  
10 application of this subdivision, shall be carried over to  
11 succeeding income years, as if it were an amount  
12 exceeding the "tax" for the income year, as provided in  
13 subdivision (d).

14 (g) The amendments made to this section by the act  
15 adding this subdivision shall apply to income years  
16 beginning on or after January 1, 1998.

17 SEC. 2. This act provides for a tax levy within the  
18 meaning of Article IV of the Constitution and shall go into  
19 immediate effect.

