ASSEMBLY BILL No. 1397

Introduced by Assembly Member Burke

February 22, 2019

An act to add and repeal Sections 17053.50 and 23650 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

legislative counsel's digest

AB 1397, as introduced, Burke. Income taxes: credit: railroad in reconstruction or replacement.

The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws. Existing law requires any bill authorizing a new tax credit to contain, among other things, specific goals, purposes, and objectives that the tax credit will achieve, detailed performance indicators, and data collection requirements.

This bill would allow a credit against those taxes for each taxable year beginning on or after January 1, 2020, and before January 1, 2025, to a qualified taxpayer in an amount equal to 50% of the qualified railroad reconstruction or replacement expenditures paid or incurred by the qualified taxpayer, subject to a specified limitation. The bill also would include the additional information required for any bill authorizing a new income tax credit.

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. This act shall be known, and may be cited, as the "Short Line Railroad Modernization Act of 2019."

SEC. 2. Section 17053.50 is added to the Revenue and Taxation Code, to read:

17053.50. (a) (1) For taxable years beginning on or after January 1, 2020, and before January 1, 2025, there shall be allowed to a qualified taxpayer a credit against the "net tax," as defined in Section 17039, in an amount equal to 50 percent of the qualified taxpayer's qualified railroad reconstruction or replacement expenditures, subject to paragraph (2).

(2) The amount of the credit allowed by this section shall not exceed the product of three thousand five dollars ($3,500) and the number of miles of railroad track owned or leased within the State of California by the qualified taxpayer at the close of the taxable year for which the credit is claimed.

(b) For purposes of this section:

(1) "Qualified railroad reconstruction or replacement expenditures" means the costs paid or incurred by the qualified taxpayer for reconstruction or replacement of railroad infrastructure, including, but not limited to, track, roadbed, bridges, industrial leads, and track-related structures owned or leased by the qualified taxpayer as of January 1, 2020. "Qualified railroad reconstruction or replacement expenditures" shall also include the costs paid or incurred by the qualified taxpayer for new construction of industrial leads, switches, spurs and sidings, and extensions of existing sidings.

(2) "Qualified taxpayer" means a company that owns a railroad that is classified by the United States Surface Transportation Board as a Class II or Class III railroad.

(c) In the case where the credit allowed under this section exceeds the "net tax," as defined in Section 17039, for a taxable year, the excess credit may be carried over to reduce the "net tax" in the following taxable year, and succeeding four taxable years, if necessary, until the credit has been exhausted.

(d) The Franchise Tax Board may prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of this section, including any rules to permit verification of the qualified taxpayer's ownership of railroad infrastructure as of

January 1, 2020. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to any rule, guideline, or procedure prescribed by the Franchise Tax Board pursuant to this section.

SEC. 3. Section 23650 is added to the Revenue and Taxation Code, to read:

23650. (a) (1) For taxable years beginning on or after January 1, 2020, and before January 1, 2025, there shall be allowed to a qualified taxpayer a credit against the "tax," as defined in Section 23036, in an amount equal to 50 percent of the qualified taxpayer's qualified railroad reconstruction or replacement expenditures, subject to paragraph (2).

(2) The amount of the credit allowed by this section shall not exceed the product of three thousand five dollars ($3,500) and the number of miles of railroad track owned or leased within the State of California by the qualified taxpayer at the close of the taxable year for which the credit is claimed.

(b) For purposes of this section:

(1) "Qualified railroad reconstruction or replacement expenditures" means the costs paid or incurred by the qualified taxpayer for reconstruction or replacement of railroad infrastructure, including, but not limited to, track, roadbed, bridges, industrial leads, and track-related structures owned or leased by the qualified taxpayer as of January 1, 2020. "Qualified railroad reconstruction or replacement expenditures" shall also include the costs paid or incurred by the qualified taxpayer for new construction of industrial leads, switches, spurs and sidings, and extensions of existing sidings.

(2) "Qualified taxpayer" means a company that owns a railroad that is classified by the United States Surface Transportation Board as a Class II or Class III railroad.

(c) In the case where the credit allowed under this section exceeds the "tax," as defined in Section 23036, for a taxable year, the excess credit may be carried over to reduce the "tax" in the following taxable year, and succeeding four taxable years, if necessary, until the credit has been exhausted.

(d) The Franchise Tax Board may prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of this section, including any rules to permit verification of the qualified taxpayer's ownership of railroad infrastructure as of

January 1, 2020. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to any rule, guideline, or procedure prescribed by the Franchise Tax Board pursuant to this section.

SEC. 4. (a) It is the intent of the Legislature to comply with Section 41 of the Revenue and Taxation Code.

(b) For the purposes of complying with Section 41 of the Revenue and Taxation Code, with respect to Sections 17053.50 and 23650 of the Revenue and Taxation Code as added by this act, the Legislature finds and declares as follows:

(1) The goal of this bill is to stimulate the reconstruction or replacement of antiquated railroad infrastructure. Towards this end, the Short Line Railroad Modernization Act of 2019 ensures railroad safety and creates overall positive and sustained economic impacts for the entire state.

(2) The following information shall be provided by a railroad company to the Franchise Tax Board:

(A) A specific list of improvements and the number of miles improved by the railroad company.

(B) A time line specifying when the railroad company will be 286K capable.

(C) A list of improvements that would not have occurred but for the tax credit allowed by Section 17053.50 or 23650 of the Revenue and Taxation Code, as added by this act.

(D) An explanation of the market failure that the tax credit allowed by Section 17053.50 or 23650 of the Revenue and Taxation Code, as added by this act, attempts to correct.

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

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