

AMENDED IN ASSEMBLY MAY 16, 2002

AMENDED IN ASSEMBLY MAY 6, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1862

Introduced by Assembly Member Wyman

(Coauthors: Assembly Members Ashburn, Bates, Bogh, Briggs, Bill Campbell, Cox, Hollingsworth, Horton, La Suer, Leonard, Leslie, Maddox, Robert Pacheco, Pescetti, Runner, Strickland, and Wyland)

(Coauthors: Senators Battin, Johannessen, McPherson, Monteith, and Morrow)

January 31, 2002

An act to add and repeal Sections 17053.67 and 23667 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1862, as amended, Wyman. Personal income and bank and corporation taxes: credits: military service.

The Personal Income Tax Law and the Bank and Corporation Tax Law authorize various credits against the taxes imposed by those laws.

This bill would authorize a credit against those taxes for each taxable year beginning on or after January 1, 2002, and before January 1, 2010, in an amount equal to 50% of the amount of benefits paid during the taxable year, not to exceed ~~an unspecified amount~~ \$75,000, to qualified employees, as defined, who are on active duty or service.

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 17053.67 is added to the Revenue and
2 Taxation Code, to read:
3 17053.67. (a) For each taxable year beginning on or after
4 January 1, 2002, and before January 1, 2010, there shall be allowed
5 as a credit against the “net tax, as defined in Section 17039, an
6 amount equal to 50 percent of the benefits paid or incurred during
7 the taxable year, not to exceed ~~_____ dollars (\$_____)~~ *seventy-five*
8 *thousand dollars (\$75,000)*, to a qualified employee who is called
9 to active active duty or service, as defined in 10 U.S.C. Section
10 101(d) and is on that duty or service during that taxable year.
11 (b) For purposes of this section:
12 (1) A “qualified employee” is an employee who, as a member
13 of the California National Guard or a United States military
14 reserve organization, is ordered to active duty or service, as
15 defined in 10 U.S.C. Section 101(d) on or after September 11,
16 2001, as a result of Operation Enduring Freedom or any successor
17 military action, including homeland defense. *For purposes of this*
18 *paragraph, a qualified employee is an individual whose services*
19 *for the employer were primarily performed in this state. For*
20 *purposes of the preceding sentence, primarily means more than 50*
21 *percent.*
22 (2) “Benefits” means the difference between the amount of his
23 or her military pay and allowances and the amount the employee
24 ~~would have received as an employee, including any raises that~~
25 ~~would otherwise have been granted during the time the individual~~
26 *would have received as an employee during the time the individual*
27 *was on active duty or service, as defined in 10 U.S.C. Section*
28 *101(d). For purposes of this paragraph, military pay and*
29 *allowances includes all types of pay and allowances (other than*
30 *in-kind benefits), whether or not subject to the taxes imposed by*
31 *this part.*
32 (c) No deduction shall be allowed as may otherwise be
33 provided in this part for that portion of the benefits paid or incurred
34 for the taxable year that is equal to the amount of the credit allowed
35 under this section.



1 (d) In the case where the credit allowed by this section exceeds
2 the “net tax,” the excess may be carried over to reduce the “net
3 tax” in the following year, and *seven* succeeding years if
4 necessary, until the credit is exhausted.

5 (e) This section shall remain in effect only until December 1,
6 2010, and as of that date is repealed.

7 SEC. 2. Section 23667 is added to the Revenue and Taxation
8 Code, to read:

9 23667. (a) For each taxable year beginning on or after
10 January 1, 2002, and before January 1, 2010, there shall be allowed
11 as a credit against the “tax,” as defined in Section 23036, an
12 amount equal to *50 percent of the benefits paid or incurred during*
13 *the taxable year, not to exceed* ~~_____ dollars (\$_____)~~ *seventy-five*
14 *thousand dollars (\$75,000), to a qualified employee who is called*
15 *to active duty or service, as defined in subsection (d) of Section*
16 *101 of Title 10 of the United States Code, and is on that duty or*
17 *service during that taxable year.*

18 (b) For purposes of this section:

19 (1) A “qualified employee” is an employee who, as a member
20 of the California National Guard or a United States Military
21 Reserve organization, is ordered to active duty or service, as
22 defined in 10 U.S.C. Section 101(d) on or after September 11,
23 2001, as a result of Operation Enduring Freedom or any successor
24 military action, including homeland defense. *For purposes of this*
25 *paragraph, a qualified employee is an individual whose services*
26 *for the employer were primarily performed in this state. For*
27 *purposes of the preceding sentence, primarily means more than 50*
28 *percent.*

29 (2) “Benefits” means the difference between the amount of his
30 or her military pay and allowances and the amount the employee
31 ~~would have received as an employee, including any raises that~~
32 ~~would otherwise have been granted during the time the individual~~
33 *would have received as an employee during the time the individual*
34 *was on active duty or service, as defined in 10 U.S.C. Section*
35 *101(d). For purposes of this paragraph, military pay and*
36 *allowances includes all types of pay and allowances (other than*
37 *in-kind benefits), whether or not subject to the taxes imposed by*
38 *Part 10 (commencing with Section 17001).*

39 (c) No deduction shall be allowed as may otherwise be
40 provided in this part for that portion of the benefits paid or incurred



1 for the taxable year that is equal to the amount of the credit allowed
2 under this section.

3 (d) In the case where the credit allowed by this section exceeds
4 the “tax,” the excess may be carried over to reduce the “tax” in
5 the following year, and *seven* succeeding years if necessary, until
6 the credit is exhausted.

7 (e) This section shall remain in effect only until December 1,
8 2010, and as of that date is repealed.

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

