

AMENDED IN SENATE JANUARY 6, 2014

**SENATE BILL**

**No. 798**

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**Introduced by Senator De León  
(Principal coauthor: Senator Pavley)**

February 22, 2013

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~~An act to add Division 4 (commencing with Section 64300) to Title 6.7 of the Government Code, and to amend Section 39712 of the Health and Safety Code, relating to infrastructure finance, and making an appropriation therefor. An act to add and repeal Sections 17053.86 and 23686 of the Revenue and Taxation Code, relating to student financial aid, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 798, as amended, De León. ~~California Green Infrastructure Bank Act. Income taxes: credits: contributions to education funds.~~

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

*This bill, under both laws, for taxable years beginning on or after January 1, 2014, and before January 1, 2017, would allow a credit equal to a certain percentage of a contribution to the College Access Tax Credit Fund, established by this bill, for specified education purposes, as provided. The bill would specify that the aggregate amount of credit that may be allocated under both laws shall not exceed \$500,000,000 for each calendar year, as specified, and would require the California Educational Facilities Authority to perform certain duties with regard to allocating and certifying the tax credits allowed under these provisions.*

*This bill would become operative only if SB 174 of the 2013–14 Regular Session is enacted and takes effect on or before January 1, 2015.*

*This bill would declare that it is to take effect immediately as an urgency statute.*

~~The Bergeson–Peace Infrastructure and Economic Development Bank Act authorizes the California Infrastructure and Economic Development Bank, governed by a board of directors, to make loans and provide other assistance to public and private entities for various types of economic development projects, among other things. The activities of the bank under these provisions are funded from the California Infrastructure and Economic Development Bank Fund, which is continuously appropriated for these purposes.~~

~~This bill would enact the California Green Infrastructure Bank Act (act). The bill would establish the California Green Infrastructure Bank (bank) as a public corporation and would make it responsible for administering the act. The bill would make the bank under the direction of an executive director to be appointed by the Governor subject to Senate confirmation. Under the bill, the bank would be governed and its corporate power exercised by a board of directors consisting of 5 members, including 3 members appointed by the Governor subject to Senate confirmation and the Senate Committee on Rules and the Speaker of the Assembly would each appoint one member.~~

~~In order to facilitate green economic development, the bill would, among other things, authorize the executive director, subject to board resolution, to enter into any contract or loan agreement between the bank or special purpose trust, as defined, and any subdivision of the state or local government, that provides that the bank will loan funds to the subdivision or local government and that the subdivision or local government will repay the principal and pay the interest and redemption premium, as specified. The bill would require the bank to establish criteria for the selection of projects to receive assistance from the bank. The bill would also require the bank to notify the Governor and specified legislative committees when the bank makes changes to that criteria. Prior to submitting a project to the bank for consideration, the bill would require the subdivision of the state or local government to make specified findings by resolution.~~

~~The bill would authorize the board or the executive director, as delegated by the board, to issue bonds and would also authorize a special purpose trust, as defined, to issue bonds. The bill would require the~~

bank to establish fees to be paid by the sponsor or the participating party, as defined, to reimburse the state for the costs of administering these provisions. The bill would direct the deposit of these fees into the California Green Infrastructure Bank Fund, described below.

In addition to the bank, the bill would require the executive director to manage and conduct the business and affairs of the Green Infrastructure Bank Fund and the California Green Infrastructure Trust Fund, subject to the direction of the board. The bill would establish the California Green Infrastructure Bank Fund and the California Green Infrastructure Trust Fund, both of which would be continuously appropriated for purposes of carrying out the provisions of the act. By establishing these continuously appropriated funds, the bill would make an appropriation.

This bill would require the bank, not later than February 1 annually, to submit to the Governor and the Joint Legislative Budget Committee a report of its activities for the preceding fiscal year, that includes, among other things, a specification of bonds sold and the applicable interest rates and the amount of other public and private funds leveraged by the bank's assistance. The bill would require the bank's budget respecting the guarantee trust fund to be prepared and reviewed not later than February 1 annually and would require the bank to submit to the Legislature a report of its activities.

The bill would authorize the bank to issue revenue bonds in a principal amount that the bank is required to determine is necessary to provide sufficient funds for its purposes, that may include, among other things, providing funds for the payment of costs of a project, for the purchase of bonds of a special purpose trust or a sponsor, or payment of interest on bonds of the bank or a special purpose trust. The bill would authorize the bank to give final approval for the issuance of the bonds or of the authorization of a special purpose trust upon terms it deems necessary or desirable.

The California Global Warming Solutions Act of 2006 requires the State Air Resources Board to adopt regulations to require the reporting and verification of emissions of greenhouse gases and, among other things, authorizes the state board to include use of market-based compliance mechanisms. Existing law requires all moneys, except for fines and penalties, collected by the state board from the auction or sale of allowances as part of a market-based compliance mechanism to be deposited in the Greenhouse Gas Reduction Fund and to be available upon appropriation by the Legislature. Existing law requires the

Department of Finance, in consultation with the state board and any other relevant state agency, to develop, as specified, a 3-year investment plan for the moneys deposited in the Greenhouse Gas Reduction Fund.

Existing law authorizes the allocation of moneys appropriated from the Greenhouse Gas Reduction Fund for the purpose of reducing greenhouse gas emissions through, among other things, investments in programs implemented by local and regional agencies and collaboratives, and by nonprofit organizations coordinating with local governments.

This bill would specify that these investments include the California Green Infrastructure Bank. The bill would declare the intent of the Legislature to enact legislation that would appropriate a specified amount from the Greenhouse Gas Reduction Fund to be used for carrying out the act. The bill would make conforming changes in this regard.

Vote: majority  $\frac{2}{3}$ . Appropriation: yes-no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 17053.86 is added to the Revenue and  
2     Taxation Code, to read:

3     17053.86. (a) (1) For taxable years beginning on or after  
4     January 1, 2014, and before January 1, 2017, there shall be  
5     allowed as a credit against the “net tax,” as defined in Section  
6     17039, an amount equal to the following:

7     (A) For each taxable year beginning on and after January 1,  
8     2014, and before January 1, 2015, 60 percent of the amount  
9     contributed by the taxpayer for the 2014 taxable year to the College  
10    Access Tax Credit Fund, as allocated and certified by the  
11    California Educational Facilities Authority.

12    (B) For each taxable year beginning on and after January 1,  
13    2015, and before January 1, 2016, 55 percent of the amount  
14    contributed by the taxpayer for the 2015 taxable year to the College  
15    Access Tax Credit Fund, as allocated and certified by the  
16    California Educational Facilities Authority.

17    (C) For each taxable year beginning on and after January 1,  
18    2016, and before January 1, 2017, 50 percent of the amount  
19    contributed by the taxpayer for the 2016 taxable year to the College

1 *Access Tax Credit Fund, as allocated and certified by the*  
2 *California Educational Facilities Authority.*

3 *(2) Contributions shall be made only in cash.*

4 *(b) (1) The aggregate amount of credit that may be allocated*  
5 *and certified pursuant to this section and Section 23686 shall be*  
6 *an amount equal to the sum of all of the following:*

7 *(A) Five hundred million dollars (\$500,000,000) in credits for*  
8 *the 2014 calendar year and each calendar year thereafter.*

9 *(B) The amount of previously unallocated and uncertified*  
10 *credits.*

11 *(2) (A) For purposes of this section, the California Educational*  
12 *Facilities Authority shall do all of the following:*

13 *(i) On or after January 1, 2014, and before January 1, 2017,*  
14 *allocate and certify tax credits to taxpayers under this section.*

15 *(ii) Establish a procedure for taxpayers to contribute to the*  
16 *College Access Tax Credit Fund and to obtain from the California*  
17 *Educational Facilities Authority a certification for the credit*  
18 *allowed by this section. The procedure shall require the California*  
19 *Educational Facilities Authority to certify the contribution amount*  
20 *eligible for credit within 45 days following receipt of the*  
21 *contribution.*

22 *(iii) Provide to the Franchise Tax Board a copy of each credit*  
23 *certificate issued for the calendar year by March 1 of the calendar*  
24 *year immediately following the year in which those certificates*  
25 *are issued.*

26 *(B) (i) The California Educational Facilities Authority shall*  
27 *adopt any regulations necessary to implement this paragraph.*

28 *(ii) Chapter 3.5 (commencing with Section 11340) of Part 1 of*  
29 *Division 3 of Title 2 of the Government Code does not apply to*  
30 *any regulation adopted by the California Educational Facilities*  
31 *Authority pursuant to clause (i).*

32 *(c) (1) In the case where the credit allowed by this section*  
33 *exceeds the “net tax,” the excess may be carried over to reduce*  
34 *the “net tax” in the following year, and succeeding five years if*  
35 *necessary, until the credit is exhausted.*

36 *(2) A deduction shall not be allowed under this part for amounts*  
37 *taken into account under this section in calculating the credit*  
38 *allowed by this section.*

1     (d) (1) *The College Access Tax Credit Fund is hereby created*  
2 *as a special fund in the State Treasury. All revenue in this special*  
3 *fund shall be allocated as follows:*

4     (A) *First to the General Fund in an amount equal to the*  
5 *aggregate amount of certified credits allowed pursuant to this*  
6 *section and Section 23686 for the taxable year. Funds allocated*  
7 *to the General Fund shall be considered General Fund revenues*  
8 *for purposes of Sections 8 and 8.5 of Article XVI of the California*  
9 *Constitution.*

10    (B) *Second, upon appropriation, as follows:*

11    (i) *To the Franchise Tax Board, the California Educational*  
12 *Facilities Authority, the Controller, and the Student Aid*  
13 *Commission for reimbursement of all administrative costs incurred*  
14 *by those agencies in connection with their duties under this section,*  
15 *Section 23686, and Section 69432.7 of the Education Code.*

16    (ii) *To the Student Aid Commission for purposes of awarding*  
17 *Cal Grants to students pursuant to Section 69431.7 of the*  
18 *Education Code.*

19    (2) *The tax credit allowed by subdivision (a) of this section and*  
20 *subdivision (a) of Section 23686 for donations to the College*  
21 *Access Tax Credit Fund shall be known as the College Access Tax*  
22 *Credit.*

23    (e) *This section shall remain in effect only until December 1,*  
24 *2017, and as of that date is repealed.*

25    SEC. 2. *Section 23686 is added to the Revenue and Taxation*  
26 *Code, to read:*

27    23686. (a) (1) *For each taxable year beginning on or after*  
28 *January 1, 2014, and before January 1, 2017, there shall be*  
29 *allowed as a credit against the “tax,” as defined in Section 23036,*  
30 *an amount equal to the following:*

31    (A) *For taxable years beginning on and after January 1, 2014,*  
32 *and before January 1, 2015, 60 percent of the amount contributed*  
33 *by the taxpayer for the 2014 taxable year to the College Access*  
34 *Tax Credit Fund, as allocated and certified by the California*  
35 *Educational Facilities Authority.*

36    (B) *For taxable years beginning on and after January 1, 2015,*  
37 *and before January 1, 2016, 55 percent of the amount contributed*  
38 *by the taxpayer for the 2015 taxable year to the College Access*  
39 *Tax Credit Fund, as allocated and certified by the California*  
40 *Educational Facilities Authority.*

1 (C) For taxable years beginning on and after January 1, 2016,  
2 and before January 1, 2017, 50 percent of the amount contributed  
3 by the taxpayer for the 2016 taxable year to the College Access  
4 Tax Credit Fund, as allocated and certified by the California  
5 Educational Facilities Authority.

6 (2) Contributions shall be made only in cash.

7 (b) (1) The aggregate amount of credit that may be allocated  
8 and certified pursuant to this section and Section 17053.86 shall  
9 be an amount equal to the sum of all of the following:

10 (A) Five hundred million dollars (\$500,000,000) for the 2014  
11 calendar year and each calendar year thereafter.

12 (B) The amount of previously unallocated and uncertified  
13 credits.

14 (2) (A) For purposes of this section, the California Educational  
15 Facilities Authority shall do all of the following:

16 (i) On or after January 1, 2014, and before January 1, 2017,  
17 allocate and certify tax credits to taxpayers under this section.

18 (ii) Establish a procedure for taxpayers to contribute to the  
19 College Access Tax Credit Fund and to obtain from the California  
20 Educational Facilities Authority a certification for the credit  
21 allowed by this section. The procedure shall require the California  
22 Educational Facilities Authority to certify the contribution amount  
23 eligible for credit within 45 days following receipt of the  
24 contribution.

25 (iii) Provide to the Franchise Tax Board a copy of each credit  
26 certificate issued for the calendar year by March 1 of the calendar  
27 year immediately following the year in which those certificates  
28 are issued.

29 (B) (i) The California Educational Facilities Authority shall  
30 adopt any regulations necessary to implement this paragraph.

31 (ii) Chapter 3.5 (commencing with Section 11340) of Part 1 of  
32 Division 3 of Title 2 of the Government Code does not apply to  
33 any regulation adopted by the California Educational Facilities  
34 Authority pursuant to clause (i).

35 (c) (1) In the case where the credit allowed by this section  
36 exceeds the "tax," the excess may be carried over to reduce the  
37 "tax" in the following year, and succeeding five years if necessary,  
38 until the credit is exhausted.

1 (2) A deduction shall not be allowed under this part for amounts  
2 taken into account under this section in calculating the credit  
3 allowed by this section.

4 (d) This section shall remain in effect only until December 1,  
5 2017, and as of that date is repealed.

6 SEC. 3. This act shall become operative only if Senate Bill 174  
7 of the 2013–14 Regular Session is enacted and takes effect on or  
8 before January 1, 2015.

9 SEC. 4. This act is an urgency statute necessary for the  
10 immediate preservation of the public peace, health, or safety within  
11 the meaning of Article IV of the Constitution and shall go into  
12 immediate effect. The facts constituting the necessity are:

13 As our state economy is recovering, it is important to provide  
14 adequate funding to the Cal Grant B Access Awards beginning in  
15 the 2015–16 academic year so that these students can stay enrolled,  
16 it is therefore necessary that this act take effect immediately so  
17 that contributions can be made to the College Access Tax Credit  
18 Fund in 2014.

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**All matter omitted in this version of the bill  
appears in the bill as introduced in the  
Senate, February 22, 2013. (JR11)**