

ASSEMBLY THIRD READING

AB 2142 (Gabriel)

As Amended April 6, 2022

Majority vote. Tax Levy

SUMMARY

Allows, for taxable years beginning on or after January 1, 2022, and before January 1, 2027, a gross income exclusion for any amount received as a rebate, voucher, or other financial incentive issued by a "public water system", local government, or state agency for participation in a turf replacement water conservation program.

Major Provisions

- 1) Defines "public water system" by reference to Health and Safety Code Section 116275.
- 2) Allows the gross income exclusion under both the Personal Income Tax Law and the Corporation Tax Law.
- 3) Takes immediate effect as a tax levy.
- 4) Repeals the gross income exclusion's statutory provisions on December 1, 2027.

COMMENTS

What are we covering? In recent years, a number of local governments and agencies have established rebate programs to encourage water conservation. For example, the Municipal Water District of Orange County offers a "Turf Removal Program" to qualifying residents and businesses across Orange County. The water district notes that by replacing water-intensive grass with climate-appropriate landscapes, customers can reduce water use by 50% to 70%. Rebates start at \$3 per square foot of turf removed.

California's expired gross income exclusion specifically applied to rebates issued for participation in similar turf removal programs. This bill, in turn, would reinstate a similar gross income exclusion for five years.

A serious dry spell: According to the National Integrated Drought Information System, 100% of the state is currently experiencing at least moderate drought conditions. 87% of California, in turn, is in severe drought, which is marked by inadequate grazing lands, a longer fire season, and increased wildlife disease. These conditions led to Governor Newsom issuing a proclamation on October 19, 2021, extending the statewide drought emergency and calling on Californians to step up their water conservation efforts. Unfortunately, it would appear that the Governor's call has largely gone unanswered. On March 15, 2022, CalMatters reported that Californians actually used 2.6% more water in January compared to before the drought emergency declaration. (Becker, R. (2022, March 15). Californians used more water as state braces for another dry year. CalMatters. <https://calmatters.org/environment/2022/03/california-water-use-up/>.)

Issues of conformity: This bill would reestablish a state gross income exclusion for which federal law appears to have no counterpart, thus increasing nonconformity. California typically conforms to federal law for gross income exclusions for ease of administration and taxpayer compliance.

According to the Author

The author has provided the following statement in support of this bill:

California is a leader in policies that promote water efficiency, which is a critical tool to increase our ability to adapt to climate change. The State permanently exempts certain water efficiency rebates and not others which runs counter to our efforts to promote water efficiency. Additional conservation and efficiency is especially important now as we are in our second severe drought within a decade. AB 2142 will reinstate an important personal income tax exemption for California residents who do their part to adapt to our changing climate and conserve California's water.

Arguments in Support

This bill is supported by the West Basin Municipal Water District, which notes:

Due to worsening statewide drought conditions, there is a clear need for additional grass replacement projects to reduce [. . .] long-term water demand. AB 2142 was introduced at a time when California water agencies, and the water users they serve, are being asked to do even more to use less water. This legislation will help incentivize more people to take advantage of grass removal rebates that cities and water agencies offer by removing one of the unexpected costs that result from participating in such programs.

Arguments in Opposition

This bill is opposed by the California Teachers Association, which notes:

According to the Department of Finance, the state provided over \$81 billion in General Fund tax expenditures in 2021-22 and continues to grow each year. This revenue would have otherwise gone to the General Fund, of which approximately 40 percent would have been applied to Proposition 98 (Prop 98) for K-14 education. This means that approximately \$32 billion is redirected away from schools and community colleges each year.

FISCAL COMMENTS

According to the Assembly Appropriations Committee:

- 1) General Fund revenue loss of at least approximately \$150,000 in fiscal year (FY) 2022-23, \$100,000 in FY 2023-24 and \$100,000 in FY 2024-25.
- 2) Costs of an unknown, but likely absorbable amount, to the Franchise Tax Board to administer the exclusion.
- 3) Costs of an unknown, but likely absorbable amount, to the Department of Finance (DOF) to add an analysis of the exclusion in DOF's annual tax expenditure report.
- 4)

VOTES**ASM REVENUE AND TAXATION: 11-0-0**

YES: Irwin, Nguyen, Gray, Grayson, Robert Rivas, Mayes, Mullin, Petrie-Norris, Quirk, Luz Rivas, Seyarto

ASM APPROPRIATIONS: 16-0-0

YES: Holden, Bigelow, Bryan, Calderon, Carrillo, Megan Dahle, Davies, Mike Fong, Fong, Gabriel, Eduardo Garcia, Levine, Quirk, Robert Rivas, Akilah Weber, Wilson

UPDATED

VERSION: April 6, 2022

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