HR 3525 IH

111th CONGRESS

1st Session

H. R. 3525

To amend the Internal Revenue Code of 1986 to provide for the treatment of bonds issued to finance renewable energy resource facilities, conservation and efficiency facilities, and other specified greenhouse gas emission technologies.

IN THE HOUSE OF REPRESENTATIVES

July 31, 2009

Mr. THOMPSON of California (for himself and Mr. HELLER) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide for the treatment of bonds issued to finance renewable energy resource facilities, conservation and efficiency facilities, and other specified greenhouse gas emission technologies.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT OF BONDS ISSUED TO FINANCE RENEWABLE ENERGY RESOURCE FACILITIES AND CONSERVATION AND EFFICIENCY FACILITIES AND OTHER SPECIFIED GREENHOUSE GAS EMISSION TECHNOLOGIES.

(a) In General- Section 142(a) of the Internal Revenue Code of 1986 is amended by striking `or' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting a comma, and by inserting after paragraph (15) the following new paragraphs:

`(16) renewable energy resource facilities,

`(17) conservation and efficiency facilities and projects, or

`(18) zero emission vehicles and related facilities or projects.'.

(b) Renewable Energy Resource Facility- Section 142 of such Code is further amended by adding at the end the following new subsection:

`(n) Renewable Energy Resource Facilities- For purposes of subsection (a)(16)--

`(1) IN GENERAL- The term `renewable energy resource facility' means--

`(A) any facility used to produce electric or thermal energy (including a distributed generation facility) from--

`(i) solar, wind, or geothermal energy,

`(ii) marine and hydrokinetic renewable energy,

`(iii) incremental hydropower,

`(iv) biomass (as defined in section 203(b) of the Energy Policy Act of 2005 (42 U.S.C. 15852(b))), or

`(v) landfill gas, or

`(B) any facility or project used for the manufacture of facilities referred to in subparagraph (A).

`(2) DEFINITIONS- For purposes of paragraph (1)--

`(A) GEOTHERMAL ENERGY- The term `geothermal energy' means energy derived from a geothermal deposit (within the meaning of section 613(e)(2)) or from geothermal heat pumps.

`(B) MARINE AND HYDROKINETIC RENEWABLE ENERGY- The term `marine and hydrokinetic renewable energy' has the meaning given such term in section 45(c)(10).

`(C) INCREMENTAL HYDROPOWER- The term `incremental hydropower' means additional energy generated as a result of efficiency improvements or capacity additions to existing hydropower facilities made on or after the date of enactment of this subsection. The term `incremental hydropower' does not include additional energy generated as a result of operational changes not directly associated with efficiency improvements or capacity additions.'.

(c) Conservation and Efficiency- Section 142 of such Code is amended by adding at the end the following new subsection:

`(o) Conservation and Efficiency Facilities and Projects- For purposes of subsection (a)(17), the term `conservation and efficiency facility and project' means--

`(1) any facility used for the conservation or the efficient use of energy, including energy efficient retrofitting of existing buildings, or for the efficient storage, transmission, or distribution of energy, including any facility or project designed to implement smart grid technologies (as described in title XIII of the Energy Independence and Security Act of 2007, or individual components of such technologies as listed in section 1301 of such Act),

`(2) any facility used for the conservation of or the efficient use of water, including--

`(A) any facility or project designed to--

`(i) reduce the demand for water,

`(ii) improve efficiency in use and reduce losses and waste of water, and

`(iii) improve land management practices to conserve water, or

`(B) any individual component of a facility or project referred to in subparagraph (A), or

`(3) any facility or project used for the manufacture of facilities referred to in paragraphs (1) and (2).

For purposes of paragraph (2)(A), facilities and projects does not include facilities or projects that store water.'.

(d) Zero Emission Vehicles and Related Facilities or Projects- Section 142 of such Code is amended by adding at the end the following new subsection:

`(p) Zero Emission Vehicles and Related Facilities or Projects-

`(1) ZERO EMISSION VEHICLES- The term `zero emission vehicles' means vehicles that have no tailpipe emissions, evaporative emissions, or onboard emission-control systems that can deteriorate over time.

`(2) FACILITIES RELATED TO ZERO EMISSION VEHICLES- A facility or project is related to a zero emission vehicle if the facility is any real or personal property to be used in the design, technology transfer, manufacture, production, assembly, distribution, or service of zero

emission vehicles.'.

(e) Coordination With Section 45- Paragraph (3) of section 45(b) of such Code is amended by adding at the end the following new sentence: `Clause (ii) of subparagraph (A) shall not apply with respect to (I) any qualified facility that is a renewable energy resource facility described in section 142(a)(16), (II) any qualified facility that is a conservation and efficiency facility described in section 142(a)(17), or (III) any qualified facility that is a zero emission vehicle and related facility or project described in section 142(a)(18).'.

(f) Coordination With Section 45K- Subparagraph (A) of section 45K(b)(3) of such Code is amended by adding at the end the following flush sentence: `Clause (i)(II) shall not apply with respect to (aa) any qualified facility that is a renewable energy resource facility described in section 142(a)(16), (bb) any qualified facility that is a conservation and efficiency facility described section 142(a)(17), or (cc) any qualified facility that is a zero emission vehicle and related facility or project described in section 142(a)(18).'.

(g) Coordination With Section 146(g)(3)- Section 146(g)(3) is amended by striking `or (15)' and all that follows through the end of the paragraph and inserting `(15), (16), (17), or (18)'.

(h) Effective Date- The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

END

Basic Background on impact of HR 3525

- HR 3525 helps local governments stimulate local job growth and reduce green house gas emissions helping property owners create demand for retrofit workers and reduce their need for fossil fuel generated energy.

- HR 3525 will support local efforts such as the Sonoma County Energy Independence Program by reducing the cost of financing for property owners seeking to reduce their carbon footprint.

- By reducing project costs it increases more funds that can be used to employ more work can be done by local workers to retrofit properties.

- Local Governments need HR 3525 to start energy efficiency efforts. By giving all local governments access to tax exempt bonds, financing costs will be reduced and those savings will be passed along to consumers.

- With HR 3525, the federal government puts its resources with its priorities. As these retrofit programs expand, more people will be employed to provide the construction and retrofit work thus stimulating the economy. The workers employed will be tax payers and consumers who will further stimulate economic activity.

- HR 3525 will help reduce green house gas emissions by helping property owners who choose to participate voluntarily to bring needed energy and water efficiency projects online. By reducing energy and water use, less fossil fuels are burnt and communities will transform into greener, more efficient places to live.

- HR 3525 is a jobs bill and a needed tool to protect our climate.

SONOMA COUNTY ISSUE PAPER – AB 811— Energy and Water Efficiency Efforts

In 2005, recognizing the need to take aggressive steps to help solve the climate crisis, the County of Sonoma and all of its cities jointly pledged to reduce County-wide greenhouse gas emissions (GHG) from all sources to 25 percent below 1990 levels by 2015. Further, the County and the cities have recognized the need for a regional coordination effort to ensure these local efforts and jurisdictions are all supportive and complementary of each other. This coordination is the basis for Sonoma County's Climate Protection Partnership. The Partnership focuses on effectively managing the multiple programs and opportunities associated with GHG reductions regionally, pursuing funding opportunities by taking a joint approach, as well as leveraging and sharing best practices and resources.

One example of a project that fits within this Partnership is an AB 811 program. AB 811 (Levin) provides California counties and cities the ability finance the purchase and installation of solar panels and other energy efficiency improvements for residential and commercial properties. At its core, AB 811 is a lending program, similar to commercial banking/lending. A local jurisdiction provides money to property owners, who purchase and install energy efficiency technologies, then pay back the loan over time via the property tax billing system. The loans and improvements are tied to the property so individual property owner credit worthiness is less of a concern and this can help keep the interest costs and administrative process more attractive. Moreover, AB 811 creates the additional benefit of protecting or increasing "green" job opportunities in the current difficult economic climate.

Sonoma County has launched its AB 811 program, the Sonoma County Energy Independence Program without it negatively impacting the County's financial wherewithal and debt capacity. In the current economic climate, the County does not have the capability to provide subsidies from its General Fund to operate an AB 811 program without cutting funding from existing, critical programs such as criminal justice, health and human services, and transportation.

The approach adopted was to borrow from the County Treasury Pool (cash on deposit from County, schools, and special districts) for initial limited financing. This money is being used by property owners under the program and the difference between the interest rates the County pays to the Treasury and the rate property owners pay to the County only has to be enough to pay for the administration of the program. An artificial cap to an effort to reduce green house gases and spur green job creation could exist due to limited resources. Sonoma County has committed $100 million to this effort but it is clear that the need will far outstrip this funding capacity.

To address this limiting factor and the unfeasibility of the County holding long term debt of this nature, Sonoma County seeks to utilize to the bond market as an initial broader financing tool. This tool would be used and replenish the pool, so long as the bond market interest rates are low enough to be competitive. Currently, bonds under this type of program would be considered taxable and those rates are not currently nor historically likely to provide the margin needed for program feasibility. Tax exempt bonds would create the needed funding capacity for the program to grow beyond its initial small level and allow greater public participation. Increased financing capacity would increase the green job production of the effort as well as greatly enhance the climate protection benefits of the program, the two primary goals of this effort.

Under the existing conditions, the County is in a high-risk situation if it implements this program without the use of tax exempt bonds to stimulate this effort. This generate higher interest rate bonds and would jeopardize financing for the program. Due to these financial risks and the significant financial hurdle to initiate this program, Federal funding support would allow for a stronger and more rapid implementation of the County's AB 811 program. In addition, the change of bond status from taxable to tax exempt would help ensure the long term financing viability via the bond market. By enabling home owners and businesses to participate in a broader solar photovoltaic effort, the benefits of federal support, through the allowance of tax exempt bonds for this effort, would be evident. This program could have the multiple effect of reducing green house gas production, creating good paying "green" jobs, and reducing reliance on fossil fuel based energy productions.