CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE
INITIAL STATEMENT OF REASONS

INTRODUCTION

The purpose of these proposed regulations is to define the requirements and process for applying for State Historic Rehabilitation Tax Credits for the rehabilitation of a certified historic structure or a qualified historic residence. The program is to be administered by the California Tax Credit Allocation Committee (CTCAC) and the Office of Historic Preservation (OHP). The program shall remain in effect only until December 1, 2027, and as of that date is repealed.

PROBLEM STATEMENT

The Legislature adopted Senate Bill No. 451 (Chapter 703, Statutes of 2019), as amended by Assembly Bill No. 150 (Chapter 82, Statutes of 2021), because it found that California's historic buildings are an important asset to communities throughout the state, and the preservation and restoration of these buildings is vital to economic development, enhancing civic pride, increasing tourism, and maintaining vibrant and inclusive neighborhoods.

Revenue and Tax Code sections 17053.91(g) and 23691(g), respectively, authorize OHP to adopt regulations to implement the requirements of these sections within the bill, establish a written application in coordination with the California Tax Credit Allocation Committee (CTCAC), establish a process to determine that an applicant meets the requirements of these sections and to ensure that the rehabilitation project meets the Secretary of the Interior's Standards for Rehabilitation, and establish a process to approve or reject all historic tax credit allocation applications.

Further, Revenue and Tax Code sections 17053.91(h) and 23691(h), respectively, authorize CTCAC to establish a process jointly with OHP to implement the provisions of these sections of the bill, allocate on a first-come-first-served basis an aggregate amount of the credit and allocate any carryover of unallocated credits from prior years, certify tax credits allocated to taxpayers, provide the Franchise Tax Board an annual list of taxpayers that were allocated a credit including each taxpayer's taxpayer identification number and the amount allocated to each taxpayer, and establish procedures for the recapture of amounts allocated for a tax credit allowed to a taxpayer for the rehabilitation of a qualified residence if the taxpayer does not use the qualified residence as their principal residence within two years after rehabilitation of the residence.

The above-referenced sections, however, do not define the application process, forms, or fees. Rather, the sections leave that to the discretion of the OHP and CTCAC. Additionally, the sections do not specify the procedures for the approval, allocation, and disbursement of the tax credit. Rather, the sections leave that to CTCAC to implement.

The bill makes specific findings detailing the goals, purposes, and objectives of the tax credits and specifies performance indicators for determining whether proposed preservation projects meet those goals, purposes, and objectives through data collection requirements.

Additional findings from the Legislature include:

1. Congress created the Federal Historic Preservation Tax incentives program in 1976 with a 25 percent tax credit for the rehabilitation of historic structures and revised the program in 1986 to lower the tax credit to 20 percent. The program is currently available to California's income producing historic properties and has generated nearly $1.6 billion in investment during the last 10 years.
2. While 35 states have similar state tax credits or incentives for historic preservation, no such incentive exists in California.
3. The federal rehabilitation tax credit applies specifically to income-producing historic properties, and throughout its history has leveraged many times its cost in private expenditures on historic preservation. This program is the largest federal program specifically supporting historic preservation, generating over $144.6 billion in historic preservation activity since 1976. During the 2018 fiscal year, the National Park Service approved 1,013 proposed projects, representing an estimated $6.89 billion of investment to restore and rehabilitate historic buildings.
4. The federal Historic Preservation Tax Incentives program remains an outstanding means of leveraging private investment in the adaptive reuse and preservation of historic buildings. The program continues to help stimulate economic recovery in older communities, both large and small, throughout the nation, and created an estimated 108,862 jobs in 2017.
5. Over the last 10 years, California has had 127 projects qualify for the federal Historic Preservation Tax Incentives program. These projects have been located in 20 different counties.
6. As California communities continue to adjust and adapt to the dissolution redevelopment agencies, proven tools are still needed to incentivize economic development and revitalize economically distressed areas.

BENEFITS

The broad objective of the legislation is to leverage dollars in private investment enabled by allocation of the credits, create construction jobs as a result of this investment, create long-term jobs associated with the use of rehabilitated historic buildings, and stimulate economic activity associated with the rehabilitation of historic buildings facilitated by the credits.

When used in conjunction with the federal historic preservation tax credits, state historic rehabilitation tax credits prove an important financial incentive for reinvestment in the historic cores of communities. Historic preservation tax incentives generate jobs, enhance property values, create affordable housing, and augment revenues for federal, state, and local governments.

States that have partnered a state incentive with the federal Historic Preservation Tax Incentives program have reaped significant economic development benefits, including construction and building industry job creation, increased state tax revenues through increased employment and wages, increased local property tax revenues through increased property values, and increase local tax revenues through state taxes and heritage tourism.

The specific benefits from the legislation are a 20% or a 25% personal income tax or corporate tax credit for the certified rehabilitation of a certified historic structure or a qualified residence.

These regulations do not create or expand any benefits beyond those already offered by the legislation that created this tax credit program.

SPECIFIC PURPOSE AND NECESSITY

Specific purpose of the regulation and justification for the necessity of the regulation.

These proposed regulations add a new Chapter 3, “State Historic Rehabilitation Tax Credit” to Division 17, Title 4 of the California Code of Regulations.

Title 4. Business Regulations
Division 17. California Tax Credit Allocation Committee Regulations Implementing the Federal and State Low-Income Housing Tax Credit Laws
Chapter 3. State Historic Rehabilitation Tax Credit (SHRTC)

Authority: Sections 17053.91 and 23691 of the Revenue and Taxation Code

Section 11010. Purpose and Scope.

This subdivision identifies the purpose and scope for CTCAC and OHP to develop and administer the State Historic Rehabilitation Tax Credit program. A citation of authority is required as part of rulemaking.

Section 11011. Definitions.

This subdivision defines the terms used in the regulations for the State Historic Rehabilitation Tax Credit program. These terms are used uniformly in all California and federal rehabilitation tax credits and certifications for listing and have specific legal standing.

Section 11012. Joint Application and Compliance Process.

This subdivision identifies the application process including the allocation of credit. Qualifications for application are specified in the legislation. The legislation requires CTCAC to establish a process for the allocation of the credits jointly with OHP. This subdivision also identifies proposed fees charged for providing services required to administer the State Historic Tax Credit program as well as compliance requirements for allocated credits. Since the legislation does not allocate any funding to administer this program and instead allows for the charging of reasonable fees to recover costs incurred in fulfilling the CTCAC's responsibilities described in the legislation.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS

No documents were relied upon.

ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Program regulations will require an applicant to submit an application for approval, establish the economic benefits of the project, and pay a fee that has been approved by the OHP and CTCAC.

There will be some cost involved in applying for and receiving the credits, including fees. The fees are considered reasonable to support the staff time to review applications, as there are no administrative funds available for the allocation of this credit. Any costs should be easily offset by the state tax credit issued to lower the applicant's state tax obligation. Beyond the fees to apply for the program, these regulations do not create any costs or benefits. Based on the legislation that created the tax credit program, however, OHP and CTCAC concludes that it is:

1. Unlikely that the program will eliminate any jobs;
2. Likely that the program will create an unknown number of jobs;
3. Likely that the program may create an unknown number of new businesses to cater to the creation of a new state tax credit;
4. Unlikely that the program will eliminate any existing businesses;
5. Likely that the program will affect the expansion of businesses currently doing business in the state; and
6. Likely that the public and private benefits of the program will include long term jobs associated with the use of rehabilitated historic buildings and the overall economic activity associated with the rehabilitation of historic buildings facilitated by the state credits, and a 20% or 25% state tax credit for the certified rehabilitation of a certified historic structure.

Despite that the fact that these regulations do not create any economic impacts beyond the fees being charged to apply for the tax credits, the specific goals, purposes, and objectives that the tax credits authorized by this legislation are anticipated to achieve over the five-year term of the credit are as follows:

- Leveraging two hundred eighty-seven million ($287,000,000) in private investment.
- Creating 1,300 construction jobs and an additional 2,140 ongoing jobs.
- Creating eight hundred million dollars ($800,000,000) in economic activity.
- Reusing existing culturally contributing buildings that lower the cost of construction compared to new construction and lower construction-related greenhouse gas production associated with procurement and transportation of new materials.
- Returning many underused or vacant properties to a useful life through the repair and restoration of vintage materials and features that were the product of now rare skilled trades brought by diverse cultures and which contributed to California's own unique culture and community fabric.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

As a voluntary program offering state tax credits for the rehabilitation of certified historic structures, the proposed action will have no adverse economic impact directly affecting business. Because the program is voluntary, businesses and individuals are not required to comply with the program regulations or requirements or incur any costs if they do not submit an application applying for the tax credit program.

Applicants for the state tax credits described in the regulations may incur costs including but not limited to application fees, consultant and project team fees, project and/or development reports, application preparation including photograph compilation, drawing preparation, and reproduction.

SB 451 cites that OHP and CTCAC may charge a reasonable fee in an amount that does not exceed the reasonable costs incurred by fulfilling its responsibilities under SB 451. Fees will be established on a sliding scale based on the proposed cost of the rehabilitation of a certified historic structure. Additional fees may include an initial application fee and a processing fee.

REASONABLE ALTERNATIVE TO THE REGULATIONS AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES

Other alternative incentive programs such as state bonds or grants are not readily available or supported through the state budget process.

DUPLICATION OR CONFLICT WITH FEDERAL REGULATIONS

The state tax credit program will neither duplicate nor conflict with the federal Historic Preservation Tax Incentives program. The state tax credit will complement and enhance the use of the existing federal tax credit by providing more economic leverage to rehabilitate historic buildings.