URGENT ITEM
AGENDA MATERIAL

Government Code Section 54954.2(b)
Rules of Procedure Chapter III.C.5

THIS ITEM IS NOT YET AGENDIZED AND MAY OR MAY NOT BE ACCEPTED FOR THE AGENDA AS A LATE ITEM, SUBJECT TO THE CITY COUNCIL'S DISCRETION ACCORDING TO BROWN ACT RULES

Meeting Date: **April 29, 2025**

Item Description: **Support for AB-389 Personal Income Tax: Tax Credits: Fire-Resistant Home Improvements (Wallis)**

This item is submitted pursuant to the provision checked below:

☐ Emergency Situation (54954.2(b)(1) - majority vote required)
Determination by a majority vote of the legislative body that an emergency situation exists, as defined in Section 54956.5.

■ Immediate Action Required (54954.2(b)(2) - two-thirds vote required)
There is a need to take immediate action and the need for action came to the attention of the local agency subsequent to the agenda for this meeting being posted.

Once the item is added to the agenda (Consent or Action) it must be passed by the standard required vote threshold (majority, two-thirds, or 7/9).

Facts supporting the addition of the item to the agenda under Section 54954.2(b) and Chapter III.C.5 of the Rules of Procedure:

Councilmember Brent Blackaby was made aware of AB-389 after the submittal deadline for this meeting. The bill will be heard by the Assembly Committee on Revenue and Taxation on May 5th, and must move to the floor shortly thereafter in order to be considered by the full Assembly, necessitating an urgent review of this item to send the supporting resolution in time for the next hearing.

If approved, the bill would incentivize California residents to harden their homes against wildfire between January 1, 2025 and January 1, 2030 by providing an annual personal income tax credit of up to $400 per taxable year and $2,000 cumulatively.

Brent Blackaby
Councilmember District 6

CONSENT CALENDAR
April 29, 2025

To: Honorable Mayor and Members of the City Council

From: Councilmember Blackaby (Author), Councilmember Bartlett (Co-Sponsor), Councilmember Humbert (Co-Sponsor), Councilmember O'Keefe (Co-Sponsor)

Subject: Support for AB-389 Personal Income Tax: Tax Credits: Fire-Resistant Home Improvements (Wallis)

RECOMMENDATION

Adopt a Resolution in support of AB-389 Personal Income Tax: Tax Credits: Fire-Resistant Home Improvements (Wallis) and send copies to Assemblymember Greg Wallis, the Assembly Committee on Revenue and Taxation, Assemblymember Mike Gipson (committee chair), Assemblymember Tri Ta (committee vice chair), Senator Jesse Arreguín, and Assemblymember Buffy Wicks.

FINANCIAL IMPLICATIONS

None.

CURRENT SITUATION AND ITS EFFECTS

Given climate change and the associated increased intensity of wildfires, including the recent wildland-urban-interface fires in Los Angeles County, the City of Berkeley is in the process of adopting Zone Zero for the Grizzly Peak and Panoramic Mitigation Areas, encouraging homeowners to create defensible space and harden their homes against wildfire.

There are a few low-cost home hardening projects that can dramatically reduce a home's likelihood of burning, such as installing 1/8-inch wire mesh over vents and gutters. However, additional home hardening recommendations are costly, such as installing double pane windows and replacing roofs and siding with fire resistant materials. If passed, AB-389 would take some of that financial burden off of homeowners, incentivizing them to take steps towards home hardening they might not otherwise do by offering cumulative state income tax credits of up to $2000. AB-389 aligns with the City's goal to make Berkeley More Fire Safe.

BACKGROUND

On September 24, 2024 City Council adopted the second reading of Ordinance No. 7,934–N.S. allowing Berkeley homeowners to receive a Real Property Transfer Tax Exception for a portion of their home hardening expenses. The City has a history of being at the forefront of proactive strategies to increase Berkeley's fire resiliency.

FIRST READING OF EMBER PASSED; SECOND READING ON MAY 6

After researching the findings from the Los Angeles County fires, the Lahaina Fire, the Santa Rosa Fires, and others, several agencies: Cal Fire, the California Dept of Insurance and our Fire Department, conclude that Zone Zero is extremely efficacious in preventing a home igniting from wildfire embers that fly miles from a wildfire.

Zone Zero is the zone between the home and 5-feet around it. If there are stairs, a deck or an awning on the house, Zone Zero starts at the end of those attachments. Where Zone Zero is implemented, flammable materials and vegetation must be removed, except appropriate mature trees as tall as the house. Flammable fencing that touches the house must also have a the 5-foot section from the house out removed or replaced with non-flammable fencing, such as metal, so to not conduct fire like a wick, and ignite the home.

Berkeley's Fire Chief submitted a proposal to modify the Berkeley Fire Code to implement Zone Zero in the Grizzly Peak and Panoramic Mitigation Areas of the City. Council unanimously passed the first reading of the Ordinance on April 15, 2025. The second reading will come to Council on May 6.

The Berkeley City Council wants to provide additional financial incentives to help residents adopt the necessary home hardening and defensible space requirements included in EMBER, Effective Measures for Berkeley's Ember Resistance, to ensure widespread adoption.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

AB-389 has the potential to incentivize homeowners in Berkeley, as well as the rest of California, to harden their homes against wildfire. Homes are the biggest source of fuel in the Berkeley Hills. When one house ignites, it ignites another, and on and on until the fire is too large to fight, burning until the winds die down. Conflagrations like this release tons of greenhouse gases which contribute to climate change.

CONTACT PERSON

Councilmember Brent Blackaby Council District 6 510-981-7160

Attachments:
1: Resolution
2: AB-389 – As amended today

RESOLUTION NO. ##,###-N.S.

SUPPORT FOR AB-389: PERSONAL INCOME TAX: TAX CREDITS: FIRE-RESISTANT HOME IMPROVEMENTS (WALLIS)

WHEREAS, climate change and its associated weather patterns have increased the intensity of wildfires in the Wildland Urban Interface (WUI), endangering nearby homes and entire communities; and

WHEREAS, AB-389's cumulative tax credits of up to $2000 for fire-resistant home improvements would incentivize home owners to harden their homes against wildfire; and

WHEREAS, homes hardened against wildfire are less likely to ignite, thereby reducing the possibility of burning homes igniting other homes and creating an unstoppable conflagration; and

WHEREAS, widespread adoption of home hardening and defensible space by individual homeowners, across entire neighborhoods, will make a huge difference toward preventing urban structure-to-structure conflagrations – and income tax incentives in AB-389 can play a key role; and

WHEREAS, on September 24, 2024 the Berkeley City Council adopted Ordinance No. 7,934–N.S. to include "Wildfire Hardening" in its Real Property Transfer Exceptions; and

WHEREAS, on April 15, the Berkeley City Council passed EMBER - Effective Measures for Berkeley's Ember Resistance – in the first reading; will take up EMBER for a second reading and potential adoption on May 6; and

WHEREAS, the Berkeley City Council wants to provide additional financial incentives to help residents adopt the necessary home hardening and defensible space requirements included in EMBER, to ensure widespread adoption across nearly 1800 homes in the Very High Fire Hazard Severity Zone; and

WHEREAS, having experienced the deadly 1991 Oakland/Berkeley fire, and a catastrophic fire in 1923, Berkeley has a long history of enacting proactive strategies to make our community safer from wildfire; and

WHEREAS, the Berkeley City Council appreciates Assemblymember Greg Willis for his authorship of this important measure.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council fully supports AB-389, urges the Assembly Committee on Revenue and Taxation to advance this important measure, and encourages its adoption by the California Legislature.

BE IT FURTHER RESOLVED that copies of this resolution shall be distributed to Assemblymember Greg Willis, the Assembly Committee on Revenue and Taxation, Assemblymember Mike Gipson (committee chair), Assemblymember Tri Ta (committee vice chair), Senator Jesse Arreguín, and Assemblymember Buffy Wicks.

AB-389 Personal Income Tax: tax credits: fire-resistant home improvements. (2025-2026)

As Amends the Law Today

SECTION 1. Section 17053.4 is added to the Revenue and Taxation Code, to read:

17053.4. (a) For each taxable year beginning on or after January 1, 2025, and before January 1, 2030, there shall be allowed to a qualified taxpayer a credit against the "net tax," as defined in Section 17039, in an amount equal to 40 percent of the taxpayer's qualified expenses, subject to subdivision (c).

(b) For purposes of this section, the following definitions apply:

(1) "Qualified expenses" means costs paid or incurred by a qualified taxpayer associated with the building or installation of hardening measures to the taxpayer's primary residence, including, but not limited to, the following:

(A) A Class A fire rated roof.

(B) Enclosed eaves.

(C) Fire-resistant vents.

(D) At least six inches of noncombustible vertical clearance at the bottom of the exterior surface of a building on the property, measured from the ground up.

(E) Exterior wall covering that is noncombustible.

(2) "Qualified taxpayer" means an individual whose primary residence, for any taxable years in which the taxpayer claims the credit, is located in a high or very high fire hazard severity zone, as identified by the State Fire Marshal pursuant to Section 51178 of the Government Code, and who satisfies either of the following:

(A) For spouses filing joint returns, heads of household, and surviving spouses, as defined in Section 17046, adjusted gross income is two hundred fifty thousand dollars ($250,000) or less.

(B) For other individuals, adjusted gross income is one hundred twenty-five thousand dollars ($125,000) or less.

(c) Notwithstanding subdivision (a), credits allowed to a qualified taxpayer pursuant to this section shall not exceed four hundred dollars ($400) in a taxable year, or a cumulative total of two thousand dollars ($2,000) without regard to taxable year.

(d) If the credit allowed by this section exceeds either the annual four-hundred-dollar ($400) limit described in subdivision (c) or the "net tax," the excess may be carried over to reduce the "net tax" in the following year, and succeeding three years if necessary, until the credit is exhausted.

(e) (1) For the purposes of complying with Section 41, the Legislature finds and declares all of the following:

(A) The specific goal that the credit allowed by subdivision (a) will achieve is to compensate homeowners who live in high-risk fire areas for improvements made to mitigate and prevent property damage and loss of life due to wildfires in California.

(B) Detailed performance indicators for the Legislature to use in determining whether the credit meets the goal, purpose, and objective described in subparagraph (A) is the number of taxpayers who utilized the credit and the

average dollar amount of credits claimed.

(2) The Franchise Tax Board shall analyze the performance indicators for each taxable year and shall report its findings on or before December 1, 2030, to the Legislature, in compliance with Section 9795 of the Government Code.

(3) The disclosure provisions of this subdivision shall be treated as an exception to Section 19542.

(f) This section shall remain in effect only until December 1, 2030, and as of that date is repealed.

SEC. 2. This act provides for a tax levy within the meaning of Article IV of the California Constitution and shall go into immediate effect.