

ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Budget Committee Analyst: Jane Tolman Bill Number: AB 3000

Related Bills: See Legislative History Telephone: 845-6111 Amended Date: 06-29-2002

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Adjusted Annual Rate/State Agencies Conduct Assessment & Develop & Update Bilingual Services Implementation Plan

SUMMARY

This bill would:

- Require state agencies to conduct a survey and develop an implementation plan concerning bilingual services, and
- Change the rate of interest for overpayments of income tax by corporate taxpayers.

This bill also would make numerous changes to other state agencies regarding the assessment and development of programs under their respective jurisdictions. These provisions would not impact the department. This bill analysis will only discuss those provisions impacting the department.

SUMMARY OF AMENDMENTS

The June 25, 2002, amendments deleted the language relating to health and added the provisions mentioned above. The June 29, 2002, amendment revised the provisions related to interest and added additional provisions.

This is the department's first analysis of the bill.

PURPOSE OF THE BILL

It appears the purposes of the bill are to:

- ensure that individuals who speak a language other than English receive the same service and information as those who speak English.
- alter state law for the payment of interest on refunds for corporate taxpayers.

EFFECTIVE/OPERATIVE DATE

This bill is an urgency statute and would become effective upon enactment. The provision regarding interest on overpayments would be operative for periods beginning on or after July 1, 2002.

POSITION

Pending.

Board Position:

_____ S	_____ NA	_____ NP
_____ SA	_____ O	_____ NAR
_____ N	_____ OUA	_____ X PENDING

Department Director

Date

Gerald H. Goldberg

9/4/02

ANALYSIS

1. Dymally-Alatorre Bilingual Services Act Implementation Plan

FEDERAL/STATE LAW

Title VI of the Civil Rights Act of 1964 states that no person shall be excluded from participation in, denied the benefits of, or be subject to discrimination based on race, color, or national origin under any program or activity receiving federal financial assistance. A federal program failure to assure that people who are not proficient in English can effectively participate in and benefit from the federal program or activity may constitute discrimination on the basis of national origin, which is prohibited by Title VI.

On August 11, 2000, the President of the United States issued Executive Order 13166 entitled "Improving Access to Services for Persons With Limited English Proficiency (LEP)." The order requires each federal agency to examine the services it provides to the public and implement a system by which LEP persons can access those services.

The Dymally-Alatorre Bilingual Services Act, which was initially enacted in 1973, requires state agencies that are directly involved with supplying information or services to the public and that have contact with non-English-speaking people to employ bilingual personnel in public contact positions. In addition, the agencies may utilize existing funds to contract for telephone-based interpretation services.

The Act requires that any materials that explain the services available at a state agency must be translated into any non-English language that may be spoken by a substantial number of the public that the agency serves. A substantial number of the public is defined as members of a group who do not speak English or are unable to effectively communicate in English because it is not their native language. This group must be comprised of 5% or more of the people served by any local office or facility of a state agency.

Additionally, any oral or written notice of the availability of these materials must be given in the same non-English language that the materials were translated. Current law provides that although the materials must be provided in the non-English language, they are not required to be translated verbatim.

A state agency with local offices that serve a substantial number of non-English-speaking people may elect to (1) distribute written materials in a non-English language, or (2) furnish translation aids, guides, or assistance in completing and understanding materials written in English under the following circumstances:

- the written materials, including forms, applications, questionnaires, letters, or notices, must provide information or require an individual to furnish information, or
- the information that is furnished or required of the individual may affect their rights, duties, or privileges in relation to the services or benefits the state agency provides.

State agencies are required to conduct a survey of their local offices every two years and report the results to the State Personnel Board (SPB). The survey requests various state agency information, including, but not limited to, the number of bilingual employees in public contact positions and the number of non-English-speaking people served by each local office.

THIS BILL

This bill would require each state agency to conduct a survey of its local offices every two years regarding its public contact positions and certain details of the bilingual services it provides.

This bill would require every state agency to conduct an assessment, from which the agency would develop an implementation plan that states how the agency plans to address any deficiencies in meeting the already-existing requirements under current law. This plan would include, but is not limited to, the failure to translate written materials or employ sufficient numbers of qualified bilingual employees in public contact positions at local offices.

This bill would require that by October 1, 2003, each agency would develop and submit an implementation plan to the SPB. In every even numbered year thereafter, each state agency would submit an updated plan. Each plan would address at a minimum, all of the following items.

- The name, position, and contact information of the employee designated by the agency to oversee the implementation of the plan.
- The procedures for identifying written materials that need to be translated.
- The procedures for identifying language needs.
- The description of how the agency recruits qualified bilingual staff and a description of the training provided to the staff.
- The description of how the agency plans to address any deficiencies in meeting the requirements,
- The procedure for resolving complaints.
- The procedure on how the agency complies with any other requirements to provide linguistically accessible services to the public.

Each state agency would be required to submit their survey results and implementation plan to SPB by October 1, of the applicable year. SPB would review the survey results and implementation plan of each agency and provide a report to the Legislature every two years.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would not significantly impact the department's programs and operations.

LEGISLATIVE HISTORY

SB 1843 (Senate Budget Committee, 2001/2002) was virtually identical to this bill but those provisions were amended out of the bill August 28, 2002. SB 1843 is in the Assembly third reading.

SB 987 (Escutia, 2001/2002) would require various changes to current laws that address state agencies and bilingual service. This bill is in the Senate Appropriations Committee.

AB 763 (Shelley, 2001/2002) would require state agencies to provide, in non-English languages, any existing materials on the Internet that explain state agency services. This bill is in the Assembly Judicial Committee.

AB 805 (Shelley, 2001/2002) would require state agency websites to have a link to non-English information. This bill is in the Assembly Appropriations Committee.

PROGRAM BACKGROUND

As directed under current law, Franchise Tax Board (FTB) conducts a survey every two years and reports to SPB the number of non-English speaking people served by the department. Currently, FTB has identified Spanish as the only non-English language spoken by a group comprising 5% or more of the people served by any local office. Currently FTB provides 15 brochures, pamphlets, or schedules in Spanish. The tax form booklets include language in Spanish informing non-English-speaking taxpayers of the availability of bilingual assistance.

A review of the Internal Revenue Service (IRS) website found a listing of forms and publications that contain a handful of publications in Spanish. It does not appear that tax forms are reproduced on their website in any language other than English. The Form 1040 tax booklet has a listing of six publications that are available in Spanish, and the automated Tele Tax information line provides information in English and Spanish.

OTHER STATES' INFORMATION

Review of individual income tax booklets for *Colorado, Florida, Texas, Oregon, Arizona, New Mexico, and New York* found that Oregon is similar to California by offering telephone assistance in Spanish to help taxpayers complete English-language tax forms.

It appears that of the states reviewed none offered tax forms or publications in languages other than English. These states were reviewed because of geographic location or a population diversity that is similar to California.

FISCAL IMPACT

This provision would not significantly impact the department's costs.

ECONOMIC IMPACT

This provision would not impact the state's income tax revenue.

2. Adjusted Annual Rate

FEDERAL/STATE LAW

The interests rate the IRS charges and pays to corporations for overpayments is the short-term federal rate plus two percentage points. The underpayment rate for corporations is the short-term federal rate plus three percentage points. For larger corporate overpayments (any portion that exceeds \$10,000), the rate is reduced to the sum of the short-term federal rate plus one-half of one percentage point. These rates are adjusted quarterly, with each successive rate becoming effective two months after the date of each quarterly adjustment. As of July 1, 2002, the federal interest rate for corporate overpayments was 5%.

Current state law conforms to the federal method of calculating the imposition of interest for underpayments. With respect to the rate, state law modifies the federal overpayment rate to be equal to the federal underpayment rate. However, by providing that the overpayment rate is equal to the underpayment rate, state law does not provide different rates of interest for personal income taxpayers or corporate income taxpayers.

The rate of interest on overpayments and underpayments is determined semi-annually. As of July 1, 2002, the current state interest rate for overpayments and underpayments was 6%.

THIS BILL

For corporations only, this bill would reduce the interest rate for overpayments by providing that the rate of interest for overpayments for periods beginning on or after July 1, 2002, would be equal to the lesser of 5% or the rate of a 13-week United States Treasury bill (T-Bill).

IMPLEMENTATION CONSIDERATIONS

Since this bill would apply to overpayments for periods on or after July 1, 2002, the department would be required retroactively to recalculate the interest rate for overpayments processed after July 1, 2002, but before the enactment of this bill.

Departmental systems are unable to calculate a fraction of a percentage, which this bill requires, by specifying the new rate as 5 percent or the equivalent of a 13-week T-bill. Allowing for the current method of rounding up would resolve this issue.

Once the implementation concerns are addressed, implementing this provision of the bill would occur during the department's normal annual update.

LEGISLATIVE HISTORY

SB 1843 (Senate Budget Committee, 2001/2002) was virtually identical to this bill but those provisions were amended out of the bill August 28, 2002. SB 1843 is in the Assembly third reading.

OTHER STATES' INFORMATION

A review of *Illinois, Michigan, Massachusetts, Minnesota, and New York* laws found these states conform to the federal interest overpayment and underpayment rates. The laws of these states were reviewed because their tax laws are similar to California's income tax laws.

FISCAL IMPACT

The department would incur a cost of \$90,000 for programming changes so the system will change the interest rate. This estimate does not include costs for recalculating interest from July 1, 2002 to present.

ECONOMIC IMPACT

Revenue Estimate

Based on the discussion below, the following table reflects the estimated impact of changing the corporate overpayment rate to the lesser of 5% or the 13-week T-Bill:

Revenue Impact of AB3000 For Overpayments For Periods Beginning After Enactment Fiscal Years (In Millions)		
2002-03	2003-04	2004-05
\$8	\$14	\$21

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this proposal.

Revenue Discussion

The impact of this provision of the bill would depend on the amount of corporate overpayments and the interest rate difference for overpayments proposed by this bill and under current law.

The above estimate was based on the following data and assumptions:

- Projected interest rates for both the 13-week T-Bill and current law rates were based on historical trends for the 13-week T-Bill.
- Assumed a 5% reduction in taxpayer behavior for prepayments of audit disputes.
- Assumed no problems with implementation for the change in the interest rate calculation.

POLICY CONCERNS

Since only corporations are subject to the rate change discussed in this bill, the application of two different interest rates would result in dissimilar and inequitable treatment between LLCs and partnerships that are treated as corporations.

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