

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Cogdill Analyst: LuAnna Hass Bill Number: AB 1057

Related Bills: See Prior Analysis Telephone: 845-7478 Amended Date: January 7, 2002

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Donations of Material, Equipment or Services for Highway Maintenance or Enhancement Credit

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of the bill as proposed to be amended.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED June 5, 2001, STILL APPLIES.

OTHER - See comments below.

SUMMARY

This bill would allow a credit for roadside maintenance and enhancement.

SUMMARY OF AMENDMENT

The January 7, 2002, amendments adopted the provisions discussed in the department's analysis of the bill as proposed to be amended. The department has identified an additional implementation consideration and departmental costs, which are included below. The remainder of the department's analysis of the bill as proposed to be amended still applies. In addition, the following policy considerations still apply and are included below for convenience.

POSITION

Pending.

IMPLEMENTATION CONSIDERATIONS

This bill was introduced in the 2001 legislative session and would allow taxpayers a credit for taxable years beginning on or after January 1, 2001. If this bill were enacted in the 2002 legislative session, the credit allowed by this bill would be considered retroactive to the specified operative date of January 1, 2001, and credits claimed by taxpayers could be construed as a gift of public funds.

Board Position:

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Legislative Director

Date

Brian Putler

1/16/02

In addition, the department has already developed the forms and instructions for the 2001 taxable year. Thus, the department may incur additional costs to develop additional tax forms and instructions in the short time frame necessary to ensure they are available for taxpayers. To alleviate these concerns, the author may wish to change the operative date to January 1, 2002.

FISCAL IMPACT

Annual system changes and tax forms have been completed for the 2001 taxable year. Due to the effective date stated in this bill of January 1, 2001, the retroactive effect of this credit would cause the department to incur significant costs in updating systems and creating alternative tax forms. In addition, retroactive credits could increase the number of amended returns received by the department, which would result in additional administrative costs.

ARGUMENTS/POLICY CONCERNS

This bill would allow taxpayers a credit for the value of "time" as a service that is donated, which is unprecedented. Credits generally are allowed to taxpayers for actual expenses paid or incurred.

Under existing law, a taxpayer's contribution of property, including materials, equipment, or services, may be limited to the cost paid or incurred by the taxpayer for the property (also called the taxpayer's basis in the property). A credit that is based on the fair market value of the property contributed to the state as opposed to the basis could potentially be construed to be an amount realized on the disposition of that property, producing a gain subject to federal income tax.

LEGISLATIVE STAFF CONTACT

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