

ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author: Harman Analyst: Kristina E. North Bill Number: AB 2630

Related Bills: None Telephone: 845-6978 Introduced Date: February 22, 2002

Attorney: Patrick Kusiak Sponsor: CA Farm Bureau Federation

SUBJECT: Charitable Contribution Deduction/Qualified Conservation Contributions/Allows Carryover Until Used

SUMMARY

This bill would allow farming businesses to fully use the tax benefit of contributing land for charitable purposes.

PURPOSE OF THE BILL

According to the author's office, the purpose of this bill is to encourage property donations from farming businesses.

EFFECTIVE/OPERATIVE DATE

This bill is a tax levy. Thus, it would be effective immediately, and apply to taxable years beginning on or after January 1, 2002.

POSITION

Pending.

ANALYSIS

FEDERAL/STATE LAW

Under **federal and state tax laws**, a "farming business" means the trade or business of farming, including operating a nursery or sod farm, or raising or harvesting ornamental or other trees bearing fruit, nuts, and other crops. A "qualified conservation contribution" means a contribution of an interest in real property to a non-profit organization. The property must be used for the benefit of the general public, including outdoor recreation, scenic enjoyment, educational purposes, or historical importance.

Federal and state laws allow the qualified conservation contribution to be deducted for tax purposes. However, if an individual's contribution exceeds 50% of an established calculated amount, or a corporation's contribution exceeds 10% of its taxable income, the amount that can be deducted is limited. Any excess contribution may be carried over for up to five years.

Board Position:

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Department Director

Date

Alan Hunter for GHG

04/19/02

THIS BILL

This bill would eliminate the current five-year carryover period limitation for qualified conservation contributions made with respect to real property in this state used in a farming business. This bill would allow a carryover to all succeeding taxable years, until exhausted.

IMPLEMENTATION CONSIDERATIONS

It is unclear if this bill would allow an excess contribution incurred prior to January 1, 2002, to be carried forward to all succeeding taxable years until it is used.

Two incorrect references to the IRC are stated in this bill. Additionally, as written, this bill would not meet the author's intent of only providing unlimited carryover for farming businesses that donate real property to the state. Pursuant to the author's request, amendments 1 through 4 are provided to correct the IRC references and provide the unlimited carryover.

OTHER STATES' INFORMATION

Most states with income tax laws allow the donation of property as a charitable contribution. However, no specific information could be located regarding farming businesses making property donations for conservation purposes or property contribution deduction carryover limits.

FISCAL IMPACT

Once the implementation concern is resolved, this bill would not significantly impact the department's costs.

ECONOMIC IMPACT

The revenue loss for this bill is estimated to be minor, less than \$100,000 for 2002/2003, increasing to \$200,000 by 2003/2004 and \$250,000 by 2004/2005.

According to industry sources, the market value of charitable contributions for the conservation easement could reach \$3 million annually. After considering the effect of the current five-year carryover period for such modest contribution amounts, the additional revenue loss for periods beyond five years would be minor. It is assumed this bill would apply to preexisting carryovers as well as new contributions.

If this bill were amended to specifically apply only to new contributions made on or after January 1, 2002, the revenue loss stated above would be delayed for five years. Thus, the revenue loss would be less than \$100,000 for 2007/2008, increasing to \$200,000 by 2009/2010, and \$250,000 by 2010/2011.

LEGISLATIVE STAFF CONTACT

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 2630
As Introduced February 22, 2002

AMENDMENT 1

On page 2, line 1, strikeout "170(d)" and insert:

170(d)(1)

AMENDMENT 2

On page 2, strikeout lines 4 through 6 and insert:

instead, may be a carryover to all succeeding taxable years.

AMENDMENT 3

On page 2, line 12, strikeout "Section 170(d)" and insert:

Section 170(d)(2)

AMENDMENT 4

On page 2, strikeout lines 16 through 18 and insert:

succeeding taxable years.