

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Leonard Analyst: Gloria McConnell Bill Number: ACA 13

Related Bills: See Prior Analysis Telephone: 845-4336 Amended Date: APTBA

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Board of Equalization Renamed/Newly Named California Tax Commission Responsible for Collecting and Administering Income Taxes

- _____ 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 bill as introduced/amended _____.
- _____ FURTHER AMENDMENTS NECESSARY.
- _____ DEPARTMENT POSITION CHANGED TO _____.
- X REMAINDER OF PREVIOUS ANALYSIS OF MEASURE AS INTRODUCED AUGUST 22, 2001, STILL APPLIES.
- X OTHER - See comments below.

SUMMARY

This constitutional amendment would:

- change the name of the five-member Board of Equalization (BOE) to the California Tax Commission (CTC), and
- require CTC to collect and administer "taxes on or measured by income," herein referred to as "income taxes."¹

SUMMARY OF AMENDMENT

These amendments change the name of the Commission. As the measure was introduced, the Commission's name would have been the Tax Appeals Commission. Under these amendments, the Commission's name would be CTC.

Staff's implementation considerations, technical considerations, and fiscal impact identified in the previous analysis are restated below for your convenience:

¹ In this analysis "income" tax includes the franchise tax, which is a corporate tax measured by income and included in the provisions of the Bank and Corporation Tax Law, renamed the Corporation Tax Law, effective January 1, 2002.

Board Position:	Legislative Director	Date
_____ S	Christy Keith for Brian Putler	12/26/01
_____ SA		
_____ N		
_____ NA		
_____ O		
_____ OUA		
_____ NP		
_____ NAR		
<u>X</u> PENDING		

IMPLEMENTATION CONSIDERATIONS

The Revenue and Taxation Code requires the Franchise Tax Board (FTB) to collect and administer the income tax laws. This constitutional amendment would give the same responsibility to the CTC, which could result in administrative conflicts between the FTB and CTC. FTB may have to continue its statutory responsibility to administer the income tax laws until such time as directed otherwise through the enactment of legislation (enabling legislation) or order of a state appellate court as to a constitutional violation. According to the author's staff, the author anticipates that enabling legislation would be introduced once the voters pass the constitutional amendment.

To avoid confusion, the enabling legislation also should address the following concerns:

Certain programs administered by FTB are not income taxes: The homeowners and renters assistance, the non-tax debt collection, political reform audit, and nonadmitted insurance tax programs. It is unclear whether it is the author's intent to shift the responsibility for these programs to CTC or to continue these programs under FTB.

Likewise, certain tax laws administered by FTB are not income taxes: voluntary contributions and the treatment of tax-exempt organizations. Therefore, it is unclear whether the author intends for the administration of these provisions to shift to the CTC or continue under FTB.

Also, unless the author intends for FTB's California Child Support Automated System (CCSAS) responsibilities to remain with FTB, the enabling legislation should address CCSAS responsibility.

FISCAL AND ECONOMIC IMPACT

This constitutional amendment in and of itself should not affect departmental costs and tax revenue. The fiscal and economic impact, if any, would result from the ensuing enabling legislation.

TECHNICAL CONSIDERATION

This measure generally replaces the name "Board of Equalization" with "California Tax Commission." However, on pages 5, lines 21, 24, 27, and 38 and page 6, lines 13, 15, and 21 of the measure, only the word "Commission" is used. This inconsistency may cause confusion.

LEGISLATIVE CONTACTS

Gloria McConnell
Franchise Tax Board
845-4336

Brian Putler
Franchise Tax Board
845-6333